

The President of The Council of
India In Council



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TO THE HONOURABLE

THE PRESIDENT OF THE COUNCIL OF INDIA IN COUNCIL.

We have now the honor to report our opinion upon the question referred to us in Mr. Secretary Grant's letter of the 7th ultimo.

That question arises out of a Recommendation made by the Law Commission in Note B to the Penal Code (the provisions of the Code being framed in accordance with the Recommendation), which is, "that no act falling under the definition of an offence should be exempted from punishment because it is committed by a master against a slave."

The Honourable Court of Directors observe in their Dispatch in the Legislative Department, dated 26th September 1838 (No. 15), of which an extract accompanied the above mentioned letter of Mr. Grant to our Secretary, that this Recommendation has their entire concurrence, and they direct that Government will lose no time in passing an enactment to the effect of the Recommendation.

The Right Honourable the Governor General is stated, in a letter from the Officiating Secretary to the Government of India with the Governor General dated the 18th December 1838, an extract of which also accompanied Mr. Grant's letter, to be "impressed with the belief that this principle (the principle of the Recommendation) has been invariably acknowledged and acted up to in all Courts of Justice in Bengal. Such being the result of a minute enquiry entered into by the Sudder Dewanny Adawlut of the Lower Provinces within the last four years."

"A similar equitable principle," it is added, "is believed to have been generally adhered to in the North Western Provinces in the very few instances in which persons have appeared before a criminal tribunal in the character of master and slave, the spirit of the Regulations of Government requiring that all parties should be dealt with in our Courts of Justice on a footing of perfect equality."

The Secretary with the Governor General then proceeds to remark, that "it will remain for the Hon'ble the President in Council to determine whether, after a consideration of the question, reason might not be shewn for deferring the immediate enactment of a Law which there might be some doubt for considering specially requisite with reference to the limited prevalence of Slavery in the Bengal Presidency, the very mild character in which it exists, and the established principle in our Courts of refusing to recognize any distinction of persons in respect of criminal proceedings."

"His Lordship has directed me in this letter", the Secretary with the Governor General continues, "more especially to refer to the Presidency of Bengal,

but although he is less accurately informed of the Law and practice in the other Presidencies, he is led to believe that the same principle of general protection is also extended to them; but he would wish on this head to have further information."

The question referred to us by Mr. Secretary Grant's letter which encloses the documents we have cited, is, "whether the Law, as now actually in force over every part of British India is or is not such as to make the passing of a Law of the nature directed by the Hon'ble Court requisite in order that the intention of the Home Government may be carried into complete effect."

To this question we must answer that we think the passing of a Law of the nature directed by the Hon'ble Court is requisite in order that the intention of the Home Government may be carried into complete effect.

Our reasons for thus answering are as follows:—

First. If we take our notion of the Law now in force from the sentiments of the various Judicial Functionaries as to the course they would pursue, or would expect their subordinates to pursue, under supposed circumstances, then the Law in some parts of British India is already in conformity with the intentions of the Home Government, in other parts it is not, and in other parts it is in such a state that no one can say with certainty whether it is or is not in conformity with those intentions. It will be observed of course, that Law depending upon the opinions of Functionaries is liable to be changed by a change of Functionaries.

It is in the last mentioned state that we conceive the Law to be in the Lower Provinces subject to this Presidency. We speak with the utmost deference to the Right Hon'ble the Governor General, but His Lordship was writing only from recollection of documents which we have before us. We say this upon the presumption that the minute enquiry which His Lordship alludes to as having been entered into by the Sudder Dewanny Adawlut for the Lower Provinces within the last four years, was that enquiry which was instituted for the purpose of enabling the Court to reply to certain questions addressed to them on the subject by the Law Commission, and the result of which, combined with the result of similar enquiries instituted by the Courts of Sudder and Foujdaree Adawlut at Madras and Bombay, formed the basis of that Recommendation of the Law Commission which induced the Hon'ble Court of Directors to issue the instruction now under discussion.

The uncertain state of the Law as collected from the answers of the Judicial Functionaries is set forth in Note B to the Penal Code. But in consequence of the doubts expressed by the Right Hon'ble the Governor General as to the opinions of the Functionaries of the Lower Provinces, it will be right to cite more largely from those authorities.

Mr. C. R. Martin, the Officiating Judge of the 24 Pergunnahs, says, "The authority of the master over his slave is quite absolute according to the Mahomedan Law, and protection cannot legally be extended to the latter in case of cruelty or hard usage, but notwithstanding the Law at the present time is so much

on the side of the master, it is an acknowledged power of the Courts to award penalties on the master if he do not feed and clothe his slaves well, do not allow them to marry, and *punish them without cause.*"

Mr. J. K. Ewart, the Officiating Magistrate of the Southern Division of Cuttack, says, "A master, whether Hindn or Mussulman, is considered to have a right to his slave's labour, and to apply summarily such moderate correction as is necessary. If it is proved that a master has exceeded that limit, he is liable to punishment."

Mr. C. Harding, the Commissioner of Circuit of the 12th Division, says, "Complaints between master and slave are of such rare occurrence, and the practice of Courts so different according to circumstances, that it is impossible to reply to this question satisfactorily. If a master without due provocation seriously maltreated his slave, he would probably be fined and admonished. If he moderately chastised him for impudence, disobedience, or neglect of duty, he would be considered justified in so doing."

Mr. W. Dampier, the Commissioner of the 16th Division, says, "A Magistrate is, I consider, authorized to interfere in cases of cruelty or severe maltreatment only, but as no Law is laid down, the practice of affording the assistance varies much, some officers entirely separating the slave and master, whilst others deem it sufficient to take security for the future good conduct of the master."

Mr. R. H. Mytton, the Magistrate of Sylhet, says, "The Criminal Courts do not interfere between master and slave except for ill treatment or any act which may militate against nature. In the former case moderate correction of a slave by his master would not be considered as a misdemeanour."

These citations shew that the Judicial Functionaries of the Lower Provinces are far from unanimous in denying the right of correction to the master, though it is true that about half those who have given any opinion say they should make no difference between the treatment of a slave and a freeman. The Court of Nizamut Adawlut, however, which presides over and regulates the proceedings of all these Functionaries, have expressed a different opinion. In the letter written by the Register of the Court in answer to the enquiries of the Law Commission it is said, "A master would not be punished, the Court opine, for inflicting a slight correction on his legal slave, such as a teacher would be justified in inflicting on a scholar, or a father on his child."

In the Upper Provinces, as the Nizamut Adawlut, summing up the opinions given by their subordinates, state, without expression of dissent on their own part, that no distinction is recognized between the slave and the freeman in criminal matters, with some few exceptions it may be said that the Law is already in conformity with the intentions of the Home Government; still understanding by the word Law the course which the Judicial Functionaries say they would pursue.

With respect to the Presidencies of Madras and Bombay the Right Hon'ble the Governor General expresses a wish for further information. Upon this we

beg to remark, that the Law Commission, when it made the Recommendation contained in Note B to the Penal Code, had collected from those Presidencies a body of information precisely similar to that which it had collected from Bengal. The result is shortly stated in that Note and need not be here repeated. Of neither of those Presidencies can it be said that the Law is throughout every part of them already in conformity with the intentions of the Home Government.

Secondly. We have been speaking hitherto of the Law as collected from the statements of the various Judicial Functionaries as to the course they would pursue, or would expect their subordinates to pursue, under supposed circumstances. But it must be remembered that a Law so collected is one which the people have no means of knowing with any reasonable approach to certainty. This is in itself sufficiently evident, but a striking light is thrown upon it by comparing the answer of the Officiating Magistrate of South Cuttack already cited, which recognizes the right of moderate correction in the master, with the answer of the neighbouring Functionary Mr. Mills, the Officiating Magistrate of Central Cuttack. The latter states, that the practice which he finds has been adopted by every officer that has presided in his Court "is to punish the master and manumit any slave who prefers a complaint against him for cruelty, hard usage, or has any other reason for wishing to leave him." "It does not signify," he says, "whether the ill treatment of the master or alleged cause of dissatisfaction on the part of the slave is substantiated or not. Every Magistrate has passed an order on all such cases to the following purport, 'we do not recognize Slavery, you may go where your please, and if your master lays violent hands on you, he shall be punished.'" And not only does Mr. Mills state this as the uniform practice of his own Court, but he also thinks he may with safety assert "that the Magistrates of Bengal never recognize the masters to have a legal right over their slaves with regard to their person."

But it is further to be observed, that not only have the people no means of knowing with any reasonable approach to certainty the Law which would in general be administered to them, but the sources of information on the subject which are open to them would probably tend to mislead them. Those sources are the Mahomedan Law, the Hindu Law, and the Regulations.

The substance of the Mahomedan and Hindu Laws on this subject may be shortly stated in the words of the Muftees and Pundits of the Sudder Dewanny Adawlut of Calcutta. In the year 1808, that Court, "with a view to ascertain whether any modification of the Mahomedan or Hindu Laws of Slavery appear requisite or expedient," resolved that certain questions should be put to the Muftees and Pundits of the Court. The third of these questions was, "What offences upon the persons of slaves, and particularly of female slaves, committed by their owners or by others are legally punishable, and in what manner?"

The answer of the Muftees was, "It is unlawful for a master to punish his male or female slaves for disrespectful conduct and such like offences, further than by Tadeeb (correction or chastisement), as the power of passing sentences of Tazeer and Kisas, &c. is solely vested in the Hakim. If, therefore, the master should

exceed the limits of his power of chastisement above stated, he is liable to Tazeer, &c." This answer was made to the second question of the Court, but is referred to in the answer to the third.

The answer of the Pundits was, "In cases of disobedience or fault committed by the slave, the master has power to beat his slave with a thin stick, or to bind him with a rope; and if he should consider the slave deserving of severer punishment, he may pull* his hair, or expose him upon an ass."

It may be observed with regard to Mahomedan Law, that as they only are slaves by that Law who are captured in an Infidel territory in time of war, or who are the descendants of such captives, the status of Slavery contemplated by that Law can hardly be said to have any existence in this country. But on the other hand, those parts of the Regulations of the Bengal Code, adopted afterwards into the Madras Code, which provide that a master who has murdered his slave shall not screen himself under the technical objection derived from the principle of Kisas or Retaliation, are legislative recognitions not only of the criminal branch of Mahomedan Law, but also of the existence of a status of Slavery capable of intercepting the general principles belonging to that branch.

At Madras too, the Mahomedan Law as to the master's right of punishing received so late as 1820 the confirmation of a Circular Order of the Court of Foujdaree Adawlut, which has never been revoked, though it is said by the Judges of that Court in their answer to the Law Commission, not to be recognized in practice. It is however recognized so late as 1823, in a General Report to the Governor in Council by the Foujdaree Adawlut.

Slavery in India, 1823,
p. 226.

With regard to Hindu Slavery it may be said, that the question under discussion is one belonging to the criminal branch of the Law, and that the criminal branch of Hindu Law has been superseded by the Mahomedan. But this we apprehend is not a strictly correct view of the matter. We do not think this question belongs to the criminal branch of the existing Law, but to the Law of persons or of status. We think that when the Mahomedan Conquerors introduced their own Criminal Law and left to the Hindus their own Law of persons or of status,† they left to them that exception or defence against criminal charges, which arises out of the Hindu status of Slavery. This doctrine may be illustrated by the more palpable case of the exception or defence arising out of the Law of marriage. There can be no doubt, we think, that a Mahomedan Judge would hold a Hindu exempt from punishment for restraint upon the person of a woman who was his wife by Hindu Law, though he might have more than the four wives permitted by the Mahome-

* More correctly translated, shave.

† This view of what was done by the Mahomedan Conquerors in regard to the Hindu Law of persons or of status taken by Mr. Mill in his History of British India (2. p. 146) upon the authority of Orme. We beg, however, to refer to a Report transmitted by us to Government on the 31st October, 1840, in which the subject of the Lex Loca of India is more fully examined and discussed, and which contains the result of our researches upon the subject made since this Report was written. It is to be observed, that whether the Mahomedan Criminal Courts were or were not bound to apply the Hindu Law of status, our Criminal Courts are certainly bound to recognize it. See our Government expressly recognized that Law - November, 1840.

dan Law of marriage, and have been united to them in a manner which that Law does not recognize.

The Magistrate of Agra, Mr. Mansel, whose answers evince much reflection and research, adverts to this view of the subject. But he is of opinion that the Mahomedans did interfere to a certain extent with the Hindu status of Slavery, and he cites from the *Ayecn Akbarce*, vol. 1. p. 302, the following passages where Akbar giving instructions for the guidance of the Police, says, "He must not allow private people to confine the person of any one, nor admit of people being sold as slaves. He shall not allow a woman to be burnt contrary to her inclination." But supposing Mr. Mansel to be right on the historical question, it still does not follow that the British Government of India in adopting the Mahomedan Criminal Law, adopted also the Mahomedan modifications of the Hindu Law of status. Mr. Mansel says with reference to this doctrine, "The Criminal Law as administered under Regulations VI. and VII. of 1803, is undefined and anomalous to a degree, which renders it necessary to the student to fall back upon first principles, and the Magistrate among conflicting analogies must select that which is most consonant to natural justice." We are far from thinking that this is any unreasonable stretch of judicial discretion in favor of personal liberty. But we are now considering the subject not with a view to the judicial decision of a particular case, but to that systematic legislation for which the Law Commission was created. Mr. Mansel very properly confines his doctrine to such parts of British India as have been under Mahomedan sway. With regard to the remainder into which Mahomedan Law has been no otherwise introduced than by our Regulations, there can be no ground for thinking that the Hindu Law of status has been altered.

It is to be noted also, that by the Construction of the *Sudder Dewanny Adawlut* of 1798, confirmed by the Governor General in Council on the 12th April of that year, and fully recognized in the subsequent Resolution of the Hon'ble the Vice President in Council dated 9th September 1827, the spirit of the rule contained in Sec. 15 Regulation IV. of 1793, for observing the Mahomedan and Hindu Laws in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, was determined to be applicable to cases of Slavery. It is true that the rule and the Construction have direct reference only to civil proceedings. But they must, we apprehend, operate indirectly in criminal proceedings, by obliging the Criminal Courts to admit those exceptions or defences which arise out of the civil rights thus confirmed. We may employ again the illustration of marriage above adduced. We cannot doubt that under the rule a Criminal Court would hold a Hindu justified in exercising such restraint towards his wives as would amount to false imprisonment if exercised towards other women. And if that be so, the same Court ought certainly to deal in the same way under the Construction with the exception or defence arising out of Slavery.

The Regulations, the last mentioned source of law accessible to the people, are silent on the point in question.

Some of the Judicial Authorities indeed, and in particular those of the North Western Provinces, consider this silence of the Regulations as involving a negative

of the power in question. The collective opinion of these Authorities is thus summed up by the Sudder Dewanny Adawlut.

“ Although the Mahomedan Law permits the master to correct his slave with moderation, the Code by which the Magistrates and other Criminal Authorities are required to regulate their proceedings, does not recognize any such power; and as the Regulations of Government draw no distinction between the slave and freeman in criminal matters, but place them on a level, it is the practice of the Courts, following the principles of equal justice, to treat them both alike, affording them equal protection and equal redress whenever they come before them, and whether they stand in the relation of master and slave to each other or not.”

This inference from the silence of the Regulations would be a just one if the Regulations professed to be a complete Code. But this is not the case. They profess to be merely a supplement and corrective of Mahomedan and Hindu Law. We think therefore that it would be very unsafe to infer that any provision of those two systems was repealed by the mere omission to notice it in the Regulations.

We think then we are justified in saying that the sources of information which are open to the people would probably tend to mislead them. And if this is the case an express enactment or declaration by the legislature seems highly desirable. It would be very hard upon a master who had given his slave moderate correction in the supposed exercise of a legal right, to be brought into a Court of Justice as a criminal and subjected to punishment.

How far the people are actually misled it would be difficult to estimate. From some instances which have come to our knowledge, it would seem that the people feel it is not safe to trust to the three sources of Law above mentioned. That they do conjecture as well as they can, frequently indeed overshooting the mark, what course the Criminal Courts will adopt. But whether the above mentioned sources of information do really mislead the people, or whether they do not mislead because they are known to be unsafe guides, a Law distinctly declaring that the legal right of moderate correction does or does not exist, is the remedy indicated by either state of things.

The question, which of these two doctrines is it most expedient to promulgate as Law? is not submitted to us by the present reference, and some of us do not feel prepared to express at this stage of the enquiry into Slavery any opinion upon that point. We therefore submit without further remark the Draft of an Act for carrying into effect the views of the Hon'ble the Court of Directors founded upon the Recommendation contained in Note B to the Penal Code.

We have inserted in an Appendix the evidence we have taken since the general subject of slavery was submitted to us. The evidence which has been heretofore collected on this subject has been principally that of European Judicial Functionaries, and describes little more than what takes place in Courts of Justice. In the evidence now submitted will be found some information respecting the domestic condition of the slaves.

We have also placed in the Appendix* a compilation from the original authorities relating to Slavery made by our Secretary Mr. J. C. C. Sutherland.

We submit this our Report for the consideration of your Honor in Council.

A. AMOS.

C. H. CAMERON.

F. MILLETT.

D. ELLIOTT.

JAS. YOUNG.

Indian Law Commission,
the 1st February, 1839.

I have sent up a separate Minute stating my opinion respecting the expediency of the proposed Law.

C. H. CAMERON.

DRAFT ACT.

It is hereby declared and enacted, that whoever assaults, imprisons, or inflicts any bodily hurt upon any person being a slave, under circumstances which would not have justified such assaulting, imprisoning, or inflicting bodily hurt upon such person if such person had not been a slave, is liable to be punished by all Courts of Criminal Jurisdiction within the Territories subject to the Government of the East India Company as he would be liable to be punished by such Courts if such person had not been a slave.

MR. CAMERON'S MINUTE.

It is proper to begin with a short statement of my motives for sending up this separate Minute with our Report.

The Law Commission recommended that in the Penal code "no act falling under the definition of an offence should be exempted from punishment because it is committed by a master against a slave." We are now called upon to say whether the Law is not already in conformity with that Recommendation in every part of British India, and if it is not, to prepare a Draft of an Act which shall make it so. An opinion upon the expediency of the Law is not asked from us. But the expediency of such a special Law does not necessarily follow from the expediency of adopting the principle in a general Code. And therefore being called upon for a Draft of such a special Law, I think we are called upon by our position to express an opinion upon the question of expediency if we have formed one. We have abstained from doing so in our Report for the reasons there mentioned. I have formed an opinion upon this question, and so far as regards this Presidency an opinion which I think is very unlikely to be shaken by further inquiries, and I therefore take this mode of expressing it.

* The Appendix to this Report will be found in print in the Appendices to our General Report upon Slavery.

I shall first consider whether there is any reason to suppose that the proposed Law will excite dissatisfaction in any such degree as ought to prevent its enactment.

For this purpose it is proper to consider what changes in the Laws relating to Slavery have already been made and acquiesced in.

Regulation X. of 1811, prohibited the importation of slaves from foreign countries. Whether the prohibition is of importation of slaves generally, or only importation of slaves for the purpose of being sold, given away, or otherwise disposed of, is difficult to say, when the various high authorities who have held contrary opinions upon the point are considered.

The Honourable Court of Directors on the 26th of April, 1820, held that the Regulation prohibited importation generally. The contrary doctrine, however, seems to have been acted upon both before and since. The Regulation III. of 1832 prohibits the removal of slaves for the purpose of traffic from one province to another within this Presidency.

These are the only two general Laws* made by the Legislature which interfere with the rights of masters. But there are several cases in which local authorities have legislated with that effect by proclamation, and others in which the people have believed that legislation of that kind had taken place, which are deserving of notice.

In the year 1812 Sir C. Metcalfe, then Resident at Delhi, issued a Proclamation prohibiting absolutely the sale of slaves. The Government doubted the expediency of the Proclamation in respect of this prohibition, (and in another respect also,) because the Law in the Territory of Delhi would thereby become different from what it was in the rest of British India. A correspondence ensued in the course of which Sir C. Metcalfe says in a letter dated 3rd January 1813,

Slavery in India, 1828,
p 101 et seq.

“ I do not find that the prohibition of the sale of slaves has occasioned any surprise at this place. It is considered to be merely the extension to this territory of the orders promulgated in other parts of the British dominions, and from a general misunderstanding of the orders of Government issued elsewhere on this subject it is not known that greater restrictions are in force in this district at the present moment than in any other part of the country. It is desirable in my humble opinion, that this delusion should not be done away either here or elsewhere by a formal sanction for the sale of slaves.”

In a letter dated 16th April, 1813, Sir C. Metcalfe says in explanation of the passage just cited, “ It was my intention to intimate that the prohibition of the sale within this territory had not occasioned any surprise, it being generally conceived that the same prohibition previously existed in all other parts of the British dominions. The prohibition of the traffic in slaves, whether it be announced in a prohibition of the sale, or a prohibition of the importation, must undoubtedly occasion a certain degree of dissatisfaction, but it is amongst the worst

* The two Regulations regarding Kisas cited in our Report for a different purpose are hardly worth noticing with a view to my present purpose.

orders of the community, amongst the professed dealers in human flesh, whose abominable livelihood is affected by the abolition, and amongst that detestable class of wretches who bring up slave girls from the earliest age for public prostitution. The respectable orders of society, although they may experience some inconvenience from the privation, acknowledge the humanity and propriety of the prohibition."

The consequence was that the prohibition was allowed to continue in the Proclamation which was substituted for the one above mentioned, the 2d Article of the substituted Proclamation being as follows, "The sale and purchase of slaves in the territory of Delhi are also strictly prohibited, and any person who shall buy or sell, or shall be concerned in buying or selling one or more slaves, shall be liable to be punished by the Court of Criminal Judicature."

The final result is very extraordinary, and very illustrative. The Proclamation, and all distinct recollection of its contents, appear to have perished at Delhi. But in its place there subsists a belief that Sir C. Metcalfe abolished, not the sale of slaves, but Slavery itself.

The Commissioner of Delhi says in his answers to the questions of the Law Commission, "Since the promulgation in this territory of the Law prohibiting Slavery we have not even recognized possession as a claim, and I do not at this present moment recollect any instance of a male slave petitioning for emancipation. I have known very many applications from the unfortunate class of females purchased for the purposes of prostitution, and in every case the applicants were absolved from any further compulsory servitude, the mistress being referred to the Civil Court to obtain compensation for any expense incurred for food, clothing, jewels &c."

The Judge of Delhi says, "About the year 1811 some orders on the subject of Slavery were issued by the then Chief Civil Authority at Delhi. The precise nature of these orders I am now unable to state, a copy of them not being procurable. But I have reason to believe that they went far to remove all invidious distinctions between master and slave, and that the Courts in the Delhi Territory, which have probably been guided in their decisions by the orders in question, have not for many years, so far as I am aware, recognized any right or immunity beyond that of service to attach to the one, which did not in an equal degree belong to the other."

The Officiating Session Judge of Cawnpore says, "The reason why such cases have never come before me is principally that my experience since 1833 has been wholly confined to the Delhi Territory, where for a long time the name of Slavery only has existed; its reality has been long extinct." "Having been, before my appointment to Delhi, for eight years in South Behar, where I have myself as Registrar and Civil Judge daily decided cases of purchase of whole families of predial slaves or Kahars, I was astonished to find that Slavery was not recognized at Delhi. I was informed that since Mr. Seton's* time no claim to a slave or to compel slaves to work has been allowed; and I found the established practice of the

* Mr. Seton was Sir C. Metcalfe's immediate predecessor.

Court, that whenever a person petitioned that another person had claimed him or her as a slave, an Azadnama or certificate of freedom was given him or her to the effect that they were free. I gladly hailed this custom, but I pursued another course which I deemed more effectual. It struck me that issuing these Azadnamas or certificates was to a certain extent allowing the existence of Slavery in some sort or other. When similar applications were made to me I used merely to pass an order that Slavery did not exist, and informed the petitioner that if any person molested him or her, he should be punished."

The Additional Judge of Burdwan says in his answer to the questions of the Law Commission, "In this district the impression amongst the natives is almost universal that the existing Laws prohibit the purchasing of slaves, and though this is not in reality the case, still all that now remains of the traffic in slaves is the occasional purchase of a few children who are offered for sale in times of great scarcity."

The Officiating Magistrate of Hooghly, after stating a case from the records of his office, in which two slave girls who had been abstracted from their master's house, were made over to him though they alleged that they had met with constant maltreatment in his house, adds, "It would not however be fair to judge of the practice of the Court from one isolated instance: the idea that the natives in general entertain of what is likely to be the decision of our Courts in cases of Slavery is widely different. I am informed by the old inhabitants of the place that under the Dutch Government which encouraged Slavery, an immense number of persons of that class were to be found in Chinsurah, but finding after the cession that their new rulers looked with a cold eye upon the right of property which the master asserted in the slave, they had generally shaken off their fetters and gone abroad as freemen. So strong indeed was the opinion of our disinclination to uphold Slavery that I cannot learn that any one ever came forward to reclaim his runaway bondsman. Such is still, I have reason to believe, the prevailing idea on this subject of the inhabitants of the district at large."

The Joint Magistrate of Bograh concludes his answer thus, "I would beg to remark, that the prevailing idea amongst the natives now is, that Slavery has been long since abolished, and the system has to all intents and purposes ceased."

Since the general subject of Slavery was referred to us on the 5th November last, we have examined as many native witnesses conversant with it as we could find in Calcutta. One of these, Durb Sing Das, Oriah Missul Khan, speaking of his country North Cuttack, states as follows, "All kinds of slaves are constantly sold, but according to popular recognition the consent of the slave is necessary. This custom has arisen from a Proclamation* issued in 1824 by Mr. Robert Ker who was Commissioner of Cuttack. A slave who was sold against his consent ran away. The master used force to coerce him. He complained to the Magistrate who gave him no protection; he then appealed to the Commissioner who gave him his liberty, fined the purchaser, and issued the Proclamation of which I have spoken. The Proclamation declared the sale of slaves illegal. Since that time, I think in 1829 or 30,

* It is right to mention that another native witness considers this to be a tradition of Cuttack existing before the Proclamation of Mr. Ker.

a slave complained to Mr. Forrester the Magistrate, who declared a deed of sale to be unlawful, fined the purchaser, awarded costs from him to the slave, and referred the purchaser to the Civil Court to recover the price he had paid from the seller. This is the only case I remember since the Proclamation. The effect of the Proclamation has been not to put an end to sales, but to prevent their taking place without the consent of the slave."

These instances all point to the conclusion that the respectable and influential portion of the native community may be expected to yield a ready obedience to any commands of the Ruling Power having for their object the protection of slaves from oppression.

I have been careful in setting forth these instances to confine myself entirely to statements of fact, and I have therefore omitted some strong expressions of opinion contained in the documents from which I have quoted. Those expressions are in favor of the perfect safety of legislating to any extent on this subject. But I am not sure that I have not met in the mass of evidence before me opinions which ought to be placed in the opposite scale. I can venture to affirm that I have met with no statements of fact to be opposed to those which I have set forth.

Assuming then that there is no reason to apprehend that the proposed Law will excite discontent in any important degree, it remains only to be considered whether upon intrinsic grounds it is desirable that the master should not possess the power of moderately correcting his slave.

It is necessary to bear in mind that the question relates to such moderate correction as a parent may inflict upon his child, not to such severe punishment as a West Indian master might inflict upon his negro. This difference it is true, is only one of degree, but it is nevertheless a difference of fundamental importance as regards the proposed measure, or more strictly as regards the reasons by which the proposed measure must be justified.

If the slave owner of Bengal were now by Law in possession of a power by which he could extort productive labor from his unwilling slaves, it might be desirable for the sake of humanity to take away that power, but it could not be alleged as one of the reasons in favor of such a measure that the power to be taken from the master was a power of no substantial value to him. I think such a reason may be alleged in favor of the proposed Law, and I think that reason coupled with the liability to abuse which is inseparable from a power residing in private persons to inflict corporal punishment upon adults, sufficient to justify the enactment of the proposed Law.

Further, if the power in question were substantially valuable it might be necessary to accompany its abolition, where it still exists, with other measures which may well be dispensed with upon the contrary supposition.

I think it is desirable that the master should not possess the power of moderate correction.

Our researches into the subject of Indian Slavery have led me to believe that it operates in a great degree in mitigation of the evils which are incident to the state of society prevailing in the greater part of this country. I believe that it mitigates the evils of poverty, at all times pressing heavily upon the lower orders, in times of dearth and famine pressing with intolerable severity. Slavery may be regarded as the Indian Poor Law and preventive of infanticide. And if it were necessary for securing the advantages which belong to it in this capacity, to invest the master with the power of moderate correction, I should hesitate before I pronounced an opinion against the legal sanction of that power. But I do not think that the power of moderate correction can have that effect. The only way in which it can be supposed to have that effect is by enabling the master to obtain productive labor from an unwilling slave. To obtain that kind of labor which will leave a surplus after maintaining the slave and his family. The experience of West Indian Slavery and of English Pauperism both shew in their opposite results that productive labor cannot be extorted from an unwilling labourer without the infliction or the expectation of such punishment as English manners will not tolerate, as the Judicial Authorities of British India do not recognize, and as I believe the Laws of India never sanctioned. The investigations of the Commissioners of Poor Law Inquiry in the year 1832-3 produced, if my memory does not much deceive me, an irresistible body of evidence to the truth of this doctrine. It is not that a man cannot be made to do work by such correction as a parent may inflict upon a child. But that he cannot be made to do such work as will pay for his maintenance and leave a profit to his employer. Now there is not I think one of the Judicial Authorities of this Presidency among those who have given a distinct opinion upon the point, who recognizes any greater right in the master than that which a parent has in respect of a child, or a master in respect of a scholar or an apprentice. Consequently, if the Slavery of this part of India is beneficial to the master, it must be either because the slave has some other motive besides terror to make it so, or that the master oversteps those narrow limits to his power of correction which are recognized by all those Judicial Functionaries who admit that any power of correction at all resides in the master. The former supposition, I believe, is in accordance generally with the real state of facts in this country. The latter is only realized in rare cases of exception. Slavery in the East is not like Slavery in the West, a system of mere violence and oppression, a system of which the vivifying principle is the dread of the cart whip. Slavery in the East is a system which seems to be held together by the mutual interests of master and slave, and by the power of habit. It is held together very loosely no doubt, but still sufficiently to produce practical results. The perpetual and hereditary service of their domestics is what the upper classes in India particularly desire, as conducive to that privacy which belongs to their households. On the other hand, the lower classes are glad to bind themselves and their posterity to such perpetual service in order to be secure of subsistence in sickness and in old age, and in those periods of scarcity which are every now and then recurring. The force of habit, so peculiarly strong in this country, operates also upon both parties to prevent the dissolution of their mutual relation. All I have hitherto read and heard of Indian Slavery leads me to think that it may be described with some approach to

accuracy, as a custom according to which a poor family serves a rich one from generation to generation, the rich family in return supporting the poor one in age and sickness as well as in health and vigor, and in periods when the poor family could not earn enough to maintain itself as well as when it could earn more than enough. The status of each family of slaves appears to originate in one of two ways. First, in a contract by which a freeman sells himself and his posterity, or sells his child (or other relative) and its posterity; and secondly, in the birth of a child which has been begotten by a man of superior caste upon a woman of inferior caste. Such child is in some parts of the country a slave, and may become of course the stock of a race of slaves. But in whatever way the status may originate, the continuance of it must, it should seem, except in cases of abuse, have been in a great measure voluntary on the part of the slave. For the master never seems to have had any means of enforcing his rights which were at once lawful and effectual. Proceedings against a slave in Courts of Law are manifestly ineffectual. Such moderate correction as a parent may inflict on a child certainly was lawful though many of our Functionaries no longer permit it, but it must always have been ineffectual. Such severe correction as would be effectual has always been unlawful.

This last proposition seems evident from the answer of the Muffies and Pundits of the Sudder Dewanny Adawlut already quoted in our Report. The Muffies say, "It is further unlawful for a master to punish his male or female slaves for disrespectful conduct, and such like offences further than by Tadeeb (correction or chastisement), as the power of passing sentences of Tazeer and Kisas, &c. is solely vested in the Hakim. If, therefore, the master should exceed the limits of his power of chastisement above stated, he is liable to Tazeer." Tazeer is in its lowest degree the kind of punishment inflicted upon the smallest misdemeanours by the Magistrate. What the master may inflict upon his slave is something less than the lowest degree of Tazeer.

The Pundits say, "In cases of disobedience or fault committed by the slave, the master has power to beat his slave with a thin stick, or to bind him with a rope; and if he should consider the slave deserving of severer punishment, he may pull* his hair, or expose him upon an ass."

*More correctly, "shave his hair," as our Secretary Mr. Sutherland informs me.

The thin stick reminds one of the alleged right of an Englishman to correct his wife with a similar instrument. It is true that the ignominious punishment last mentioned might be felt severely by some individuals, but as a general method of extorting profitable work from a reluctant slave, it can never have been efficacious. If applied with the frequency with which the cart whip is applied in Georgia or Carolina it would soon cease to be any punishment at all. In what light too these punishments were looked upon by the lawgiver himself, is manifest from the following passage of Menu—"A wife, a son, a slave (mis-translated servant by Sir William Jones), a pupil, and a younger whole brother, may be corrected, when they commit faults, with a rope, or the small shoot of a cane." Menu, Chap. 8 v. 299.

The description of persons among whom the slave is enumerated shews clearly the description of punishment to which he was liable in common with them.



For confirmation of the view I have here taken of the Hindu Law, I refer to the compilation by Mr. Sutherland which will be found in the Appendix to our Report.

I feel therefore little doubt that Slavery in Bengal (if indeed slavery be not an improper name for such a condition) has subsisted for ages without any such power being vested in the master as would enable him to extort productive labor. And I believe that the power of parental correction which he possesses, where it has not already been taken from him by judicial discretion, may be taken from him without any real injury to his interests. I do not mean to say that it may not be convenient to the master in the government of his household, but I think that the great liability of such a power to run into excess when it is exercised against adults, more than counterbalances any good to the master which can result from it when confined within its legal limits.

One topic remains to be noticed. I have been considering the proposed Law with reference only to those inflictions by the master on his slave which have the correction of the slave for their object. But a master has by the Mahomedan Law a right of a different kind over his female slave, of which the abolition ought to be universally and certainly known. The answer of the Maffies from which I have quoted above is of such a nature when it touches this topic as to be expressed in Latin instead of English in the translation from the original Persian. I need not allude to it further than to remark, that in it is implied that the master may compel his female slave to be his concubine. Of course no Court of Justice under our Government would hold such a Law any justification of an act of violence or a course of persecution. But I think nevertheless that it may be reckoned among the advantages of the proposed Law that it will include a distinct negation of so monstrous a right.

I am not aware that there is any discrepancy between any doctrine of this Minute and what my much esteemed colleagues have said in Note B to the Penal Code.

The doctrine of my Minute which at first sight may appear at variance with their views, is that the master's power to correct his slave cannot with propriety be abolished by an immediate, special, and isolated measure, unless the power is already so limited as to have no substantial value; because if the power had a substantial value it might be proper to accompany its abolition with other measures. It is true that my colleagues when they sent up the Penal Code did not say this. But I think they have not said any thing that is inconsistent with it.

C. H. CAMERON.

TO THE RIGHT HONORABLE

THE EARL OF AUCKLAND, G. C. B.,

Governor General of India in Council.

We have now the honor to Report upon the subject of Slavery.

In explanation of our proceedings upon the subject it appears to be necessary to enter into some details respecting the way in which it has been referred to us, and the communications we have had with Government as to the manner of dealing with it.

We desire, in the first place, to remove a misapprehension into which the Honorable Court of Directors appear to have fallen, and which we noticed through our Secretary, immediately after the Despatch, in which it was contained, was transmitted to us.

In the second paragraph of that Despatch which was addressed by the Honorable Court to the Government of India, on the 29th August 1838, they say—"In your reply in the Legislative Department, dated 31st August, No. 3 of 1835, paragraph 29, you informed us that this delicate question (the question of Slavery) would shortly be referred to the Law Commissioners, which reference appears to have been made under your Resolutions of the same date." And in the 5th para. they add, "we desire that the attention of the Law Commissioners may be immediately recalled to this question, and that we may receive with as little delay as possible a Report on the means of carrying out remedial measures to the fullest practical extent."

The 5th para. of our Secretary's reply* to the letter† of Mr. Officiating Secretary Muldock, which enclosed the above-mentioned Despatch, was as follows:—
"They (the Law Commissioners) instruct me, at the same time, to remark that the Honorable Court in directing that the attention of the Law Commissioners should be immediately recalled to the subject of Slavery, seem to be under a misapprehension as to the nature of the communication made to the Commission by Government on the 31st August, 1835. But as the Commissioners will have an opportunity of removing this misapprehension in the Report upon Slavery which they are now called upon to prepare, they do not wish me here to enter into any explanation."

* Dated 7th Dec., 1838.
† 26th November, 1838.

In pursuance of the resolution referred to by the Honorable Court, Mr. Secretary Macnaghten transmitted to the Law Commission under date the 31st August, 1835, a copy of paras. 38 to 75 of a Despatch from the Court in the Public Department dated 10th December 1834, No. 44. These paragraphs relate to a variety of important subjects, one of which is Slavery. But neither upon Slavery nor upon any other of the topics treated in the Despatch were the Law Commission specially instructed to report.

The letter from Mr. Secretary Macnaghten which accompanied the extract, merely conveyed "a request that the observations therein contained might receive the attention of the Commission, when considering the important topics to which they related." There was no intimation whatever as to the order in which, or the time when the various topics were to be considered by the Commission.

Under date the 15th June* preceding, the Commission had been instructed to give their attention first to the preparation of "a complete Criminal Code for

* Letter from Mr. Secretary Macnaghten 15th June, 1835.

all parts of the British Indian Empire, and for every class of people, of whatever religion, or nation, resident within its limits," and they accordingly, with the knowledge and acquiescence of Government, did not enter upon the subject of slavery except in so far as was necessary for the purpose of the Penal Code.

In our Secretary's letter of the 14th Sept. 1838, No. 156, noticing generally the subjects before the Commission, it was mentioned that they intended, soon to address Government on the subject of three special references connected with slavery which had been made to them at different times.

Letter from Mr. Officiating Secretary Maddock, 5th November, 1838.

Dated 19th February 1838. No. 12.

In answer, the Commission were informed that the President in Council looked forward to the early Report promised by them, and an extract from a Despatch from the Hon'ble Court of Directors on the subject was referred for their information.

To Mr. Officiating Secretary Maddock, 16th November, 1838.

As it appeared from this extract that the Hon'ble Court expected a more comprehensive Report than the Commission had been previously called upon to make, it was thought proper to communicate further with Government to ascertain exactly their wishes. Our Secretary therefore wrote as follows :—" I am directed to acknowledge the receipt of your letter of the 5th November. With reference to an extract from a Despatch from the Hon'ble Court of Directors on the subject of Slavery enclosed in that letter, the Law Commissioners direct me to say, that if it is the wish of Government, that they should now enter upon the general question of the abolition of Slavery throughout India in execution of the intentions of Parliament, they would suggest that some of their members should be detached for the purpose of local enquiry. They feel that without such enquiry, it would be impossible for them to pronounce with confidence upon the time at which, or the means by which, the abolition of Slavery can be effected with a due regard to those interests which, however iniquitous as regards the slave, appear nevertheless to have the sanction of legal right."

"The important work of framing a Code of Judicial Establishments and Procedure in which the Commissioners are now engaged, though the attention of the absent members must of course be withdrawn from it, would, if this plan were adopted, be continued uninterruptedly by those who remain at Calcutta."

"With reference to paras. 7 and 8 of my letter to Mr. Secretary Maddock, No. 156, the Commissioners direct me to observe, that the three branches of the subject of Slavery alluded to in those paras. can, in their opinion, be effectually disposed of only in the manner they have suggested above with reference to the general question."

"The propositions from Assam in particular relating to registration, compensation by Government, and purchase of freedom by the Slave, could hardly be decided upon without local inquiry."

"The Commissioners possess, it is true, much information in the shape of answers to questions addressed to the several Courts of Sudder Dewanny and Nizamut Adawlut. But these questions were framed with a view to obtain such information as should enable the Commission to determine, whether it was necessary to make any distinctions in the Penal Code in consequence of the legal existence of Slavery, and it is obvious that a much more searching and minute inquiry is necessary before the Commission can venture to recommend positive measures for the mitigation and ultimate abolition of Slavery. They abstain from entering into any further details until they are informed, whether it is the wish of His Honor in Council, that they should give their assistance to Government in executing the intentions of Parliament as expressed in the 86th Section of the Charter Act."

In reply, the Law Commission were informed that it was not the intention of the President in Council to direct them to institute an inquiry into the state of Slavery in India in the manner they had suggested.

Letter from Mr. Officiating
Secretary Maddock, 26th
November.

The above detail has appeared to us to be necessary for two purposes. First, for the purpose of shewing that we did not delay to enter upon the subject of Slavery after we had been instructed to do so, although it was not without regret that we were compelled to withdraw our attention from several subjects on which we were engaged, and which, in our own opinion, are of still greater importance than Slavery. And secondly, for the purpose of shewing that the Report which we have now the honor to present is not the result of such an inquiry into the subject as we should have thought it right to make if we had been left to the guidance of our own discretion. As our Reports are to be laid before the two Houses of Parliament who are not cognizant of the details of our proceedings, each report ought, as it seems to us, to shew the circumstances which may encrease or diminish its value.

We proceed to note the instructions we have had for our guidance in the examination of the subject, and in framing our Report.

By the 88th Section of the Statute 3 and 4, William IV. Chapter 85, the Governor General in Council is required "to take into consideration the means of mitigating the state of Slavery, and of ameliorating the condition of Slaves, and of extinguishing Slavery" "as soon as such extinction shall be practicable and safe," and to prepare "Drafts of Laws and Regulations for the purposes aforesaid," having "due regard" "to the Laws of Marriage and the rights and authorities of fathers and heads of families."

The Despatch from the Hon'ble Court of Directors, dated 16th December, 1834,* already adverted to, contains instructions as to the manner in which the intentions of the Legislature are to be carried into effect.

* Paras. 71 to 75.

It is observed that "this subject in India is one of great delicacy, and requiring to be treated with the utmost discretion; there are certain kinds of restraint, required according to Native ideas for the government of families, and forming, according both to law and custom, part of the rights of heads of families, Mussulman and Hindoo, which are not to be included under the title of Slavery. In legislating therefore on Slavery, though it may not be easy to define the term precisely, it is necessary that the state to which your measures are meant to apply, should be described with due care." The opinion of the Hon'ble Court is also expressed, that "remedial measures should generally begin with the cases of the greatest hardship."

It is remarked that Pedial Slavery "exists mostly on the Malabar Coast, and the new territories on our North East Frontier, and there it would appear the cases of greatest hardship are to be found."

With respect to domestic Slavery, it is observed that it is "generally mild," and that "to dissolve such a connection by forcible means, would, in general, be to inflict an injury on the emancipated individual."

"We think, (say the Hon'ble Court) that the law should be made as severe against injuries done to a slave, as if they were done to any other person, and his access to the judge for the purpose of preferring a complaint should be facilitated." And with respect to emancipation, they say "it appears to us evident that the desire for it on the part of the slave should always be previously ascertained," and that every case of emancipation should be a judicial proceeding investigated and decided by the Judge."

* Enclosed in Letter from
Secretary to Government,
5th November, 1838.

† Enclosed in Letter from
Secretary to Government,
26th November, 1838.

In the Despatch* of the Hon'ble Court of Directors dated 12th February, 1838, their desire is expressed that inquiries should be made with a view in particular to ascertain in what parts of the British Territories agricultural slavery exists, what is its character, and what the nature of the difficulties which may oppose its abolition.

In their Despatch† dated 29th of August, 1838, the Hon'ble Court referring to a notice then standing on the Order Book of the House of Commons, "to bring under the consideration of the House, the state of Slavery in India," express their desire to be furnished with a clear and complete view of the subject in all its relations to the well-being of the numerous parties affected by it, and a Report on the means of carrying out remedial measures to the fullest practical extent, to be placed before the legislature. In transmitting this Despatch, the Government suggested that the evidence on the subject of Slavery, already possessed by us, should be digested, and that any defects in it being supplied, a Report should be compiled for the purpose indicated by the Court of Directors.

Besides these general instructions the Government on the 7th January, 1839, transmitted to us a copy of a Despatch from the Honorable Court of Directors, dated 26th September, 1838, expressing their entire concurrence in the recommendation of the Law Commissioners contained in Note B. appended to the Penal Code, "that no act falling under the definition of an offence should be exempted from punishment, because it is committed by a master against a slave;" and desiring that an enactment to that effect should be passed without loss of time. On this occasion the Government required us to express our opinion whether the law, as now actually in force in every part of British India, is or is not such as to make the passing of a law of the nature directed by the Honorable Court requisite for accomplishing the intention of the Home Government, and to frame the Draft of such a law, if we should consider it requisite with that view.

We reported on the 1st February, 1839, shewing that the discrepancies in the opinions and practice of the different judicial functionaries rendered such an enactment necessary to accomplish the intention of the Home Government.

We were not called upon to express, and did not express collectively,* any opinion upon the policy of such an enactment. On the 27th† May following, however, we were specially requested to state whether we considered it expedient to pass such a law, whether such a law could, with justice, be passed without compensation to the owners of Slaves, and what compensation would be equitable: also whether, if the power of moderate correction be taken away from the master, some provisions for enforcing obedience from Slaves should be enacted.

‡ Letter from the Officiating Secretary, Legislative Department, 27th May 1839, No. 222.

§ Letter from the Officiating Secretary, Legislative Department, 27th May 1839, No. 223.

On the same day, but in a separate communication,§ we were requested to prepare a note upon the present state of the law and practice in India relative to the sale of children, and to submit our opinion and suggestions on the subject, with reference to the suspicion that the traffic in children for the supply of the Zenana, and the Brothel, is a source of extensive crime.

|| 13th June 1839.

From Secretary, Legislative Department, 9th March 1840, enclosing extract of a letter from Major Sleeman, suggesting measures for the suppression of the traffic in children.

From Junior Secretary, Legislative Department, 8th June 1840, transmitting

In acknowledging these references we expressed our|| opinion that it would be most convenient and satisfactory to include our answers to them in the General Report, in the preparation of which we were then engaged. We understood that the Government approved of this suggestion, and we afterwards received the further communications noted in the margin on the points in question.

* Note.—Mr. Cameron, however, thought it right to express his opinion on the policy of such an enactment, and did so accordingly in a Minute which he sent up to Government with our Report.

We have also been directed in the letters* noted in the margin, to take into consideration the following matters.

Suggestions for the gradual mitigation and extinction of Slavery and Bondage in Assam. A Draft of an Act from the Government of Madras providing against the importation and exportation of Slaves by land.

A proposition from the Resident in Travancore for the abolition of Slavery recently discovered to exist at Anjengo.

A Draft of an Act submitted by the Government of Bombay, extending the powers conferred by the Statute 5 Geo. 4, C. 113, to the Governor and officers of the East India Company, with a view to the suppression of the traffic in Slaves on the West Coast of India.

Suggestions† for restricting the Slave Trade in the Persian Gulf, and, lately, a Report from the Government of Bombay, of measures taken for that purpose. A reference from the Government of Bombay, regarding an application from His Highness The Guicawar for the surrender of two female slaves, who had left the service of his daughter and had taken refuge in Nassick in the Company's Territory.

We have also received from Government the letters noted in the margin, containing documents relative to Slavery transmitted for our information.

In order to fulfil the above instructions our first object was to collect all the information which was accessible to us. We were already in possession of the returns made by the Judicial Officers throughout India to the questions which the Law Commission had framed with a view to penal legislation. In addition to this we have obtained more full and more general information respecting Slavery in most parts of this Presidency by the examination of such witnesses having personal knowledge of the subject as we could find in Calcutta. Many of these are themselves the owners of Slaves. We have also obtained from the Calcutta Sudder Dewanny Adawlut various cases in which the rights and obligations of masters and slaves have been judicially considered.

We have carefully perused every thing that could be found on the subject in print or in manuscript; and occasionally have obtained information on particular points by direct application to the Authorities and Officers who were competent to supply it. Our Secretary Mr. Sutherland has examined the Mahomedan and Hindoo books of Law and has extracted for our use what relates to the subject. On several points which seemed to require elucidation, we have taken the opinions of the Hindoo and Mahomedan Law Officers of the Sudder Dewanny Adawlut. From these materials we have formed a very full digest which, we hope, will be found to present as complete a view of the whole subject as can be obtained without local enquiry.

We shall begin with this Digest dividing it into the three heads of Bengal, Madras and Bombay. We shall shew the course of past legislation on the subject. We shall then note what appear to us the distinguishing features of the Slavery of this country. We shall direct the attention of Government to the evils which belong to it, and shall suggest such legislative measures as, we think, are calculated to remove or to alleviate them.

In treating this part of the subject we shall answer the particular references that have been made to us by Government.

In the Appendix will be found the evidence we have taken, the Reports that were made in answer to the queries framed by the Commission for the purpose of the Penal Code, the Reports of Cases of Slavery determined by the Court of the Sudder Dewanny Adawlut at Calcutta, and generally the papers from which we have drawn information which we do not know to be already in print.

copies of papers respecting the proposed Act from the Governments of Madras and Bombay, and the Courts of Sudder Adawlut at those Presidencies, and from the Acting Advocate General of Bombay.

* Letter from Secretary to Government 28th Sept. 1835.
1st April 1839.
7th Dec. 1835.
17th July 1837.
11th Dec. 1837.
23d April 1838.

† 11th Feb. 1839.
8th June 1840.
24th Dec. 1838.

8th April 1839, with original papers from the Government of Madras respecting the Chermars or rustic Slaves in Malabar, and copies of papers relative to the emancipation of Slaves on Government Estates in the same Provinces.

8th July 1839. With Mr. Graeme's Report on Malabar, dated 14th June 1822.
21st Oct. 1839. With copy of a Circular Order of the Fuzday Adawlut at Madras on the subject of the sale of Children by their parents, and of a letter from Government of India, requiring explanation.
16th Dec. 1839. With copy of a letter from Government of Madras, and inclosures, explanatory of the above Order.

DETAILS OF BENGAL SLAVERY.

UNDER this division of our Report we shall first treat of the systems of Slavery and Bondage prevailing in the territories which were subject to the Presidency of Bengal prior to the year 1814, under the following heads :—

1. Prevalence of Slavery.
2. Origin of Slavery.
3. The castes to which Hindoo slaves usually belong.
4. Mussulman Slaves.
5. Hindoo Masters of Mahomedan Slaves, and *vice versa*.
6. The extent of the Master's dominion over his Slave.
7. The modes in which Slaves are employed.
8. Coercion of Slaves.
9. Food, clothing and lodging of Slaves.
10. Treatment and general condition of Slaves.
11. Slave and free labour compared.
12. Slaves rendering occasional service, or temporarily separated from their Masters.
13. Manumission.
14. Transfer of Slaves by gift.
15. Ditto, ditto, by sale.
16. Prices of Slaves.
17. Mortgage of Slaves.
18. Letting Slaves to hire.
19. Slaves *adscripti glebæ*.
20. Marriages of Slaves, and ownership of their offspring.
21. Prostitution.
22. Conditional Slavery and Bondage.

In pursuing this course we shall state under each head of the subject, first the general propositions which may be collected from the information before us ; and then the exceptions and varieties peculiar to particular districts or portions of districts ; and in noticing these local peculiarities we shall adhere to the following geographical arrangement :

<i>Names of Districts.</i>		<i>Names of Provinces.</i>
1. Cuttack.		Orissa.
2. Midnapore.		
3. Hooghly.		
4. Burdwan.		
5. Beerbhoom.		
6. Moorshedabad.		
7. 24 Pergunnahs.		
8. City of Calcutta.		Bengal.
9. Nuddea.		
10. Jessore.		
11. Backergunge.		

} South of the Ganges. }

<i>Names of Districts.</i>		<i>Names of Provinces.</i>
12. Chittagong.	} E and N. of the Ganges	Bengal.
13. Tipperah.		
14. Dacca Jelalpore.		
15. Mymensing.		
16. Sylhet.		
17. Rajeshahy.		
18. Rungpore.		
19. N.E. Rungpore or Gowalpara.		
20. Dinagepore.		
21. Purneah.		
22. South Behar.*	}	Behar.
23. Bhaugulpore.		
24. Behar.		
25. Patna.		
26. Shahabad.		
27. Sarun.		
28. Tirhoot.		
29. Goruckpore.	}	Oude.
30. Ghazecpore.		
31. Azimghur.		
32. Juanpore.		
33. Benares.		Allahabad.
34. Mirzapore.		
35. Allahabad.		
36. Bundelcund.		
37. Futtehpore.		
38. Cawnpore.		
39. Etawah.	}	Agra.
40. Agra.		
41. Muttra.		
42. Allyghur.		
43. Furruckabad.		
44. Barcilly.	} Rohilcund	Delhi.
45. Moradabad.		
46. Saharunpore.		
47. Meerut.		
48. Delhi Territory.		

To the above details we shall subjoin an account of the practice of the Courts relating to these two conditions in the same territories, and having completed this

* The tract of country to which, for the sake of convenience, we have given this designation, formed prior to 1834 portions of the districts of Midnapore, Jungle Mehals and Ramghur, which two last districts have been abolished. It is now under the superintendence of a special Officer, denominated "Agent to the Governor General." See Reg. XIII of 1838.

portion of our work, we shall treat of the states of Slavery and Bondage in the remaining parts of the Bengal Presidency in the following order :

Saugur and Nerbudda Territories.

Kumaon.

Assam.

Arracan.

The Tenasserim Provinces.

Prince of Wales' Island.

Malacca.

Singapore.

Of the system of Slavery prevailing in the territories which were subject to the Presidency of Bengal prior to the year 1814.

PREVALENCE OF SLAVERY.

It may be stated generally that Slavery prevails, more or less, throughout the whole of these territories.

It prevails to a great extent in the northern and central divisions of Cuttack, particularly in the chukla of Bhudruck in the former, and in the chukla of Jehazpore in the latter division. In these two divisions of the district the proportion of the Slave to the free population is supposed to be as 6 to 10 : but this appears to be excessive, as a census taken in 1829-30 of the chukla of Bhudruck gave 8,022 Slaves only in a population of 365,066. The accuracy of this census, however, is impugned by the present Magistrate* who estimates the population of the chuckla at 225,458.

* Appendix II, No. 146.

But whatever may be the exact proportion between the Slave and free inhabitants the number of the former must be considerable, as a wealthy zemindar will possess as many as 2000 Slaves, and it is stated that there are 200 or 250 landholders who have that number each. One of the witnesses examined is himself the owner of 50 Slaves.

In the southern division of the district the Slaves are few, though the low castes to which the Slaves in northern and central Cuttack belong, exist in equal numbers in this division. Here the proportion which those who have the stain of Slavery bear to the free men is also supposed to be as 6 to 10 ; but of these one part only is in actual Slavery, the other five being practically free.

Of the extent to which Slavery prevails in those districts of the province of Bengal, which lie to the south of the Ganges, we have little specific information.†

† One of the witnesses examined, is a native of a village on the South Western border of the Beerbhoom district, but his evidence applies principally to the neighbouring part of South Behar, viz. Pachete.

The Provincial Council of Burdwan in a Report to the Council of Revenue, dated 1st August, 1774 on the subject of Slavery within their jurisdiction say, ' Slavery is very little the custom in this country.' The districts under the superintendence of this Council were, Jellapore, Midnapore, Bishenpore, Burdwan, Beerbhoom, Pachete, and Ramghur.—*Colebrooke's Supplement*, p. 202.

What does exist appears to be almost exclusively of the domestic kind, and to be confined to the houses of Mahomedans ; most of the respectable families of which persuasion probably have servants of this description. This is the case particularly among the Mahomedan Aymadars* of Burdwan, who have, according to their circumstances, from 1 to 20 Slaves each, the generality of whom are the descendants of persons who were purchased in infancy in the famine of 1770, but others have continued from father to son for two and three hundred years in the same families.

* Persons holding land from Government at a low quit rent.

In the City of Calcutta the majority of the Mahomedan, Portuguese, Armenian, Parsee, and Jew inhabitants possess Slaves.

In the districts of Bengal lying beyond the Ganges Slavery prevails to a great extent.

In Chittagong all the Mahomedan families of respectability usually possess Slaves. A Mahomedan landholder of this district, whom we examined, is the proprietor of 24 hereditary Mussulman Slaves ; yet we are informed that the Hindoo Slaves are even more numerous than those of the Moslem faith.

In Tipperah the Slaves are supposed to constitute a fourth of the population ; one family frequently possessing from 10 to 25 families of Slaves ; and there being no family of respectability, either Hindoo or Mahomedan, that has not at least one family of Slaves attached to it.

In Dacca Jelalpoore most of the better classes of people own Slaves.

In Mymensingh all the great zemindars have slaves in proportion to their wealth, who are settled upon their estates. One landholder, a lady, whose agent we examined, possesses 1400 slaves of this description. In many estates these Slaves compose the greater part of the cultivators. Even persons who live upon small salaries, such as clerks and accountants, have generally 5 or 6 slaves.

The district of Sylhet is for the most part under Ryotwarree settlement, and every Meerassadar has 1, 2, or 3 Slaves in his family ; the respectability both of Hindoos and Mahomedans being usually measured by the number of their Slaves. The Registered Meerassadars amount to 125,000, but amongst them are many under-purchasers, who are of an inferior rank and station, and do not possess Slaves. There are also Meerassadars owning Slaves who are not registered. No just estimate, therefore, can be made of the number of slaves from the number of petty landholders recorded in the public registers of the district, though some idea may be thence formed of the multitude of persons existing in that servile condition.

We have examined two witnesses from this part of the country ; one a Mussulman, the owner of two talooks, on one of which he has about 25 families of hereditary Slaves, and on the other about 120 ; the other a Hindoo, whose father is the proprietor of a small talook and owns about 75 families of Slaves.

In 1813† the number of slaves in the district was estimated at about one-sixth of the whole population : they are now supposed to amount to nearly one-third.

In Rajeshahy most persons of respectability, both Hindoos and Mahomedans, have domestic slaves, which are here supposed to constitute two-sixteenths or three-sixteenths of the entire population.

In Rungpore and Gowalpara, among the domestics, both male and female, there are many slaves, especially towards Assam, and every where along the northern frontier. Among the Garrows the Slaves form about two-fifths of the whole

† Slavery in India
1828. P. 244.

Dr. F. Buchanan.
Martin vol. 3, p 496.

population, and almost entirely belong to the chiefs, by whom they were formerly led to war. These Slaves were not only distinguished for their obedience, but for their courage also, as freedom was a reward often bestowed on such as exhibited valour. Do. do. p. 692.

In Dinagepore the number of Slaves is very small. Some children were purchased during the famine of 1769-70, and the scarcity of 1788, in order rather to keep them from starving than with a view to profit. Buchanan. Martin, vol. 2, p. 689, 913-14.

In Purneah the number of male adult Slaves amounted, according to Dr. Buchanan, to 6140, and as he considered that these might be nearly a fourth of the whole persons, young and old, in that condition, the total Slave population would be 24,560. The entire population of the district he estimated at 2,904,380; the proportion per cent. of slave to free, therefore, would be .845. Do, vol. 3 p. 122-3, 688, and 11th Table of Appendix MS.

In his account of the Slaves he gives some curious examples of the different senses in which the same words are used to designate them in different parts of this district. "Common domestic slaves," he says, "are not only called *Golam* and *Launda*, but in some parts they are called *Nufur*. While in others this term and *Dhinggar* are exclusively given to slaves employed in agriculture, in contradistinction to *Khawas* or *Bahaiya*, the name given to domestic male slaves, or *Sudin*, the name given to females. In other places again *Khawas* is given indifferently to slaves employed in agriculture or as domestics, and another distinction of more importance arises. Those who belong to zemindars and receive lands for a subsistence are called *Khawas*, while those who belong to inferior persons, and are allowed a house, food and raiment, are called *Sehana*; but none of these terms are applied in different parts with any uniformity; the words are taken in one sense in one pergunnah, and in a contrary or at least different sense in the next." In a preceding passage he had observed, that the terms *Gulmi* or *Laundi* (Slaves) were sometimes also applied to poor women who in the Eastern parts of the district gave their services as domestics for merely food and raiment, though it was admitted that they had not been purchased, could not be sold, and might change their masters at pleasure. Some such persons were also employed in agriculture, and some men gave their services on the same terms. Under the term *Laundi* also, he adds, are often comprehended the concubines of high Moslems. Do. p. 121-2.

In the districts composing the province of Behar slavery prevails to a great extent, and appears to have existed from time immemorial. Slaves are kept by almost all families of respectability, both Hindoo and Mahomedan, who can afford to do so, and even by such as are in a state of decay. To possess slaves is considered a mark of distinction, and an economical method of keeping up that display which consists in having a long train of followers. Do. p. 120-1.

In South Behar the Rajah of Chota Nagpore has from 80 to 100 domestic slaves:

In Bhaugulpore slaves of the male sex are called *Nufurs*, and their women are called *Laundis*. They are confined to the part of the district included in Soobah Behar. In general they belong to the owners of land, chiefly on free estates, or to wealthy Brahmins who rent lands. The zemindar of Colgong in this district owns 200 families of slaves, though the higher classes have not usually more than 5 or 6 slaves, and the generality have 2 or 3 only. Buchanan. Martin, vol. 2, p. 98.

Asiatic Researches,
vol. 4, p. 100 (1799
A. D.)
Buchanan. Martin,
vol. 1 p. 125.

In the Hill country near Rajemehal slavery is unknown.

In the Behar and Patna districts the slaves, here also called *Nisfur* and *Laundi*, are very numerous.

Do. p. 479.

In Shahabad they are not so numerous as in Behar, and here the Hindoo slaves are more commonly called *Kamkar*.

In Sarun some of the great landholders have as many as 200 slaves, but most of these are settled on the lands of their masters, and render them only occasional service.

In Tirhoot the Rajah of Durbunga, who is the principal person in the district, is supposed to own several hundreds of slaves.

The following are the proportions which, according to the conjectures of the witnesses examined, the slaves bear to the whole population in the districts specified.

Bhaugulpore,.....	$\frac{1}{18}$
Behar including Patna, persons having the taint of slavery,.....	$\frac{5}{16}$
Actual slaves	$\frac{3}{16}$
Sarun and Tirhoot,.....	$\frac{1}{16}$ or $\frac{2}{18}$

One witness supposes 5 per cent for every district (Bhaugulpore and Sarun excepted.)

Dr. Buchanan in his Statistical Tables gives the following estimates of the able bodied male slaves in the districts of Bhaugulpore, Behar (including the city of Patna jurisdiction,) and Shahabad; and assuming, as he does in his account of Purneah, that these form nearly a fourth of the persons, young and old, in that condition, by quadrupling the number we shall have a rough computation of the Slave population in these districts. It should be observed, however, that Dr. Buchanan's surveys were made during the years 1807 to 1811, and that the limits of the several districts to which his researches extended have been since altered.

Districts.	Total Population.	Able bodied male Slaves	Column 3 quadrupled for the whole slave population.	Proportion of Slave to free population per ct.
Bhaugulpore..	2,019,900	4,434	17,736	.877
Behar & Patna	3,364,420	32,820	131,280	3. 9
Shahabad	1,419,520	5,335	21,340	1. 5

In Goruckpore, province of Oude, Slavery appears to be little known. Dr. Buchanan computed the number of adult male Slaves at 412, which multiplied by four, gives only 1648 for the Slave population. Of the Slaves there were 250 families in one Police division of the district, (Parraona,) bordering on Sarun, of whom four-fifths were employed in agriculture. The remainder were entirely introduced from the province of Behar, having been received as presents on the marriages of some of the high-born chiefs of the district with the daughters of families residing in the former country; and these slaves were employed only as domestics.

Buchanan. Martin,
vol. 2, p. 427, and
Appendix p. 12.

Of the extent to which Slavery prevails in the districts within the provinces of Allahabad, Agra and Delhi, we have very little information. It appears to exist principally in the cities and towns, and to be almost exclusively of the domestic kind; but from the concealment which envelopes the economy of the families of the better

classes of natives, it would be almost impossible to make any accurate estimate of the number of these domestic servants.

In Ghazeeport Slavery is chiefly confined to the towns.

In Juanport the Slaves are supposed to be very few.

In Benares most families of respectability possess them.

In Allahabad the system exists, but we are not informed to what extent.

In Bundelcund Hindoo Slavery is very limited, but Mussulman Slaves are common.

In Futtehpore the system is said to have very confined operation, in consequence of the general poverty of the inhabitants.

In Cawnpore there are a few domestic Slaves, who are to be found only in the families of Mahomedans.

In Etawah, thirty years ago, most families of the better class, both Hindoo and Mahomedan, had Slaves: since then the practice has diminished, though many families of substance still possess domestic Slaves, both male and female, those of the latter being probably the most numerous. Here the Mahomedan Slaves are termed *Ghulams*, and the Hindoo Slaves *Cheeras*.

In Agra Slaves are employed to a very limited extent.

In Muttra the number of female Slaves, who belong exclusively to Mahomedans, is stated to be about 50 or 60; and the male Slaves are said not to exceed 15 or 20.

In Allygurh Slavery is confined to the houses of the wealthy.

In the districts of Bareilly and Moradabad Slaves, both Hindoo and Mahomedan, were formerly numerous; they are now probably less so, though almost all families of respectability who can afford it, especially Mahomedans, and chiefly those residing in towns, still keep them. The Slaves, however, are not supposed to be more than $\frac{1}{16}$ th of the whole population.

In Saharunpore the number of Slaves is said to be very trifling.

In the Delhi Territory the keeping of Slaves is stated to be almost entirely confined to the city of Delhi, though in all the surrounding independent states, especially where the chiefs are Mahomedans, it is more common. In the Hurrannah division of this territory, where the population consists of three classes, viz. Jaats, Bhutteas and Rajpoots, the third class only possess a few Slaves. In 1813, Sir C. Metcalfe, then Resident at Delhi, addressing Government on the means of checking the traffic in Slaves within this territory observed, "the natives of this country are undeniably greatly addicted to the purchase of Slaves, especially of the female sex; some because Slaves are kept at a less expence than other servants, others for the sake of the privacy of the apartments of their wives, others for the gratification of their own vicious propensities, others for the purpose of public prostitution. They will go to any expence and run any risk to procure Slaves."

Slavery in India,
1828, p. 104.

ORIGIN OF SLAVERY.

The Slavery prevailing in the territories subject to the Bengal Presidency may be traced to several sources.

1. The sale or gift of children by their parents or other natural guardians.
2. The sale of children and adults by their mothers or maternal relations.
3. The sale of wives by their husbands.

4. The self-sale of adults.
5. Marriage or cohabitation with a Slave.
6. Kidnapping.
7. Importation.
8. Birth.

I.—The sale of children by their parents or other natural guardians.

Of all the modes by which free born persons pass into the state of Slavery this is the most general and constant in its operation. These sales take place under the pressure of any necessity, either to obtain an advance of money, or to discharge a debt, or to preserve life. They are of course the most frequent in times of scarcity and famine, or other general calamity; such as happened in Bengal, Behar and Orissa, A. D. 1770, when nearly* one-fifth of the inhabitants are supposed to have perished by famine; in Bengal in 1784-5, when the same calamity prevailed, but in a much less degree, and in the partial scarcity of 1788, in the same province. Such also as occurred in Cuttack in 1790, and in the district of Agra in 1813-14, when half the inhabitants were supposed to have emigrated elsewhere in search of employment and food. To these may be added the famine in Bundelcund in 1833-34, and the inundations to the south of Calcutta in 1834, when children were commonly hawked about the streets of the city and in the neighbourhood, some of whom were sold by their parents, others by persons who repaired to the scene of the calamity for the purpose of purchasing or kidnapping them. Doubtless also the recent famine in Agra and the neighbouring districts had the usual effect of reducing many children to Slavery. The prices for which children are thus disposed of vary according to circumstances and the necessities of the venders. In times of general calamity they are almost nominal, the principal object looked to being the preservation and maintenance of the child. These sales are common both to the Hindoos and Mahomedans.

Hamilton's Hindustan vol. 1. p. 44.

Slavery in India, 1828 p. 468-72
Hamilton's Hindustan, vol. 1. p. 364.

Buchanan. Martin, vol. 3, p. 496-7—vol. 1, p. 480.

Dr. Buchanan mentions, that in Rungpore† poor parents sell their male children with more reluctance than females, as being a greater resource for support in old age; and that in Shahabad they seldom sell them of either sex.

In Purneah also we are told such sales do not now take place.

In Dinagpore parents reduced to distress during scarcity, give their children to persons of rank as Slaves; and in Pachete in South Behar a parent will sometimes give his child as a Slave to a wealthy and powerful zemindar, with a view to the advantage of that position.‡

* Mr. Grant says three millions or nearly one-third of the whole population. Appendix 1. to Report of Select Committee of the House of Commons, 1839, p. 14.

† The same authority, speaking of one of the aboriginal tribes called Panikoch who inhabit the woods in the North East parts of this district, says, "If a man is known to commit adultery, he is fined sixty rupees. If his family will not pay this enormous sum, he is sold as a slave." And again, "the Panikoch never apply to the Officers of Government, but settle all their own disputes, and this is done by a council of the men alone, who submit only to their wives in the arrangement of their domestic concerns. If a man incurs a debt or fine heavier than he can pay, he becomes a Slave or mortgages himself, unless his wife chooses to redeem him."—Buchanan. Martin, vol. 3. p. 541-2.

‡ It appears to be the custom in one part of Bundelcund, not within the Company's Territories, to pledge children as security for the repayment of a loan; in failure of which within the stipulated period, the creditor, with whom the child has remained in the interim, disposes of it to realise the debt.—Slavery in India, 1828, p. 213.

II.—The sale of children and adults by their mothers or maternal relations.

This is a practice peculiar to some of the districts in the province of Behar, and is confined to the two Hindoo castes of Kurmis (called also Juswar-Kurmi and Dhanuck) and Kuhars, of whom we shall presently make further mention. The Provincial Council at Patna in a letter addressed to the Government, dated the 4th August, 1774, stated generally, that the deed of sale in such cases must be signed by the mother or grandmother, and not by the father. Dr. Buchanan has not noticed this peculiarity.

Slavery in India,
1828, p. 5.

In South Behar the right of sale, according to one witness, rests first in the mother, next in the maternal grandmother, and then in the maternal uncle; but in case of a sale by the mother the presence of the maternal grandmother, or failing her, of the maternal uncle, is necessary to give it validity; but according to another witness these sales are made by the mother, and maternal grandfather or grandmother. The consent of the father to the sale of his children is considered quite unimportant, and in the sale of an adult the bargain is concluded without any reference to his inclination. The mother may dispose of her daughter though she be married; on such occasions if the husband is a freeman he usually follows his wife, but if he is the slave of another master separation ensues, and the husband provides himself with another partner.

Appendix I, No. 34,

Ditto, No. 30.

In Bhaugulpore the father signs the conveyance, but a sale by him alone while the mother is living would be invalid; her signature therefore is essential; and if the mother is dead, the consent of the maternal grandmother is equally necessary, or at least it is safer to procure her signature also. In a sale by the father and maternal grandmother the price would be divided according to any agreement they might make between themselves, but the price would be paid by the purchaser to the father.

In the district of Behar, according to one witness, the right of sale rests in the maternal grandmother, and if she is dead or permanently absent, it devolves to the maternal uncle, and no one would purchase a person of either of these two castes unless one of these maternal relations was present at the transaction and consenting. The mother, however, has a veto on the sale, but not the father, and the consent of the subject of the sale is immaterial. These sales are stated to take place in this district not only in times of calamity, but at all seasons.

Ditto No. 2.

Both in South Behar and the district of Behar the sale of an adult Kurmi or Kuhar by his mother or maternal relation takes place occasionally when the subject of the sale is absent from home and cannot be found. A sale under such circumstances is called a "*Bun-rickree*," literally a forest sale, or sale in the woods, and the price is lower on account of the risk which the buyer runs of not getting possession of his purchase.

It is curious that one of the witnesses examined, who is a native of Patna, and states himself to be conversant with the usages both of that jurisdiction and the district of Behar, denies the right of the maternal grandmother and maternal uncle, as such, in these transactions, and asserts that the children of the Kurmi and Kuhar castes are sold only by the parents or persons in loco parentis in times of distress, and that no other persons have the power of so disposing of them. He is also unacquainted with the term "*Bun-rickree*."

Appendix I, No. 23.

The following account of the custom of the district of Behar on this subject given by the Judge of Patna, who had previously held office for nearly six years in the former zillah, differs in a few particulars from all the preceding :

Appendix II, No. 75, “The right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or failing her, with the maternal grandmother. The father or other relations on his side had no such right of disposal, nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large castes, viz. the Kahars and a tribe of Koormecs, who as a body are all counted as slaves, immemorially, though it may happen that some few here and there being accidentally free, do sell their own children. In all other cases the children are the property of the parents’ master. By degrees the practice referred to seems to have become pretty general throughout Behar ; i. e. whether the parents are reputed free or otherwise, no sale of children appears to be recognised as valid to which the mother or her mother has not in some way been made a party ; and even in cases of sale of Slaves the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother, or her attestation to the instrument of sale. It seems to be generally admitted that to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth or the like, and that the party sold be an infant or of immature age.”

This last passage probably represents rather the view taken by the Court of these transactions, than the actual practice of the people amongst themselves.

In Shahabad sales of Kurmis and Kuhars, both adults and children, are made by the mother and maternal grandfather or grandmother, and the consent of the father to the sale of his children is immaterial.

In Tirhoot the sales of children are made by the parents.

III.—The sale of wives by their husbands.

Such sales are stated to take place in the district of Rajeshahy ; the marriage is not thereby dissolved, and if the husband continues to have access to his wife the offspring belong to the purchaser.

In the adjoining district of Rungpore also instances are not uncommon of Mahomedans and Hindoos selling their wives from motives either of enmity or gain.

Hamilton's Hindu-
stan, vol. 1 p. 364.

In the famine which visited the district of Agra in 1813-14, persons were glad to sell both their women and children for a few rupees, and even for a single meal.

IV.—The self-sale of adults.

These self-sales are made under like circumstances with the sales of children, but it is a very much less frequent occurrence, and in some parts is apparently unknown.

Slavery in India,
1828, p. 246.

In Sylhet during the Mogul Government persons used to sell themselves as slaves to satisfy demands of rent.

In Rajeshahy and Purnea, we are told, self-sales do not now take place.

In South Behar and Shahabad no one would purchase a person of the Kurmi or Kuhar caste from himself. In the Behar district persons of these two castes do sometimes sell themselves to their creditors.

In Rohilcund the practice of self-sale is not known.

Before adverting to the other sources of Slavery we shall give the substance of the information we have received as to the forms of the instruments used on occasions of self-sale, and the sale of children and adults, and the rights acquired by the purchasers in these classes of contracts.

The forms used in these cases are either a regular deed of sale, or a deed purporting to let the services of the subject for a long period.

In Cuttack formerly the first mentioned instrument was employed, but since a proclamation* issued in 1824 by the then Commissioner, declaring the sale of Slaves illegal, leases of 60, 70, 80 or 90 years, are usually resorted to in cases of self-sale, the lessor engaging to continue in servitude if the sum advanced be not repaid, with all expenses incurred by the lessee, at the expiration of the period.

In Sylhet the instrument used in cases of self-sale is a lease, there called a *Khoudajiree Pottah* or deed of self-lease.

In Rungpore the sales of children used to be registered.

In Dinagpore children are purchased without any writing being executed on the occasion.

In the Province of Behar the absolute deed of sale, called *Purumbhuttaruck*, and *Kibaleh*, the former being the Hindoo, the latter the Mahomedan form of conveyance, were formerly in general use; but the instrument now most commonly adopted is a lease, *Ijarehnamah*, or assignment of person and services on contract of hire for the like periods as in Cuttack. Various circumstances have given rise to this change. The purchase of a freeman being illegal according to the Mahomedan Law, the Moslems have adopted this course to save their consciences, or escape the effects which the operation of the law might otherwise have on the contract; and the Mahomedan forms of contract and conveyance have been generally adopted throughout the province of Behar, even in transactions in which both parties are of the Hindoo persuasion. A general impression also exists in the province that the sale of slaves is prohibited, which is said to have arisen partly from the provisions of Regulation X. 1811, and partly from some recent decisions of the Court of Sudder Dewanny Adawlut, and the form of lease is resorted to for the purpose of evading the supposed prohibition.

In Tirhoot the period of 60 years is usually adopted in such leases, and this is stated to have originated in a misapprehension of the rule contained in Clause third, Section 3, Regulation II. 1805, fixing that period as the extreme limit of time for the cognizance of civil suits.

Poverty and inability to provide for themselves or their children, is in this Province the usual reason assigned in the deed for these sales, and sometimes in cases of sales of children a stipulation is inserted that if the seller should ever reclaim the child he shall refund the price, and reimburse to the lessee or purchaser whatever has been expended in the support of the child, and if the child is sold to a procuress (which kind of transaction we shall notice at large hereafter) it is stipulated that the vender shall further pay the expenses incurred in educating the young prostitute.

* See further respecting this proclamation, Head 'Transfer by Sale.'

In Patna the Cauzies (public notaries) do not consider themselves at liberty to authenticate instruments for the conveyance of property in slaves. This has most probably arisen from the promulgation of the prohibitory Regulations of 1774, hereafter noticed.

Appendix II. No. 81. The Judge of Tirhoot has transmitted copies of three leases of the kind under consideration, one of which was drawn up and authenticated by a Cauzy. In the Office of the Register of Deeds at the head station of this district there is one Register entitled the Register of *Ijarehnamahs* or leases, set apart for these contracts.*

In Benares and its neighbourhood there is most commonly no written document, either in cases of self-sale or sale of children.

But whichever of the forms mentioned is employed in recording these contracts, the intentions of the contracting parties, and the practical effects of the engagements, appear to be every where the same. The subject of the sale or lease and the future off-spring, generation after generation, are conveyed in full property to the vendee or lessee, except that it may occasionally happen that there is a stipulation for redemption.† But in cases of self-sale, if the vender has children living at the time of sale, they must be specified in the instrument if intended to be conveyed by it. In cases of self-sale the price paid is the absolute property of the slave, and descends to his heirs, which is likewise the condition of any property he may have been possessed of previously to the sale. In this predicament also will be the children of a Kurmi or Kuhar female when she herself may be sold into slavery by her mother, in those parts of the Behar Province in which such a sale is sanctioned by local usage.

To the general information above set forth we have pointed exceptions in the evidence of two of the witnesses, both of the Mahomedan persuasion, regarding the effect of the sales of free persons into slavery as respects their future offspring. Appendix I. No. 4. One, speaking of these sales in the form of leases in Behar and Patna, says, that the offspring of a person thus sold is free, and states a case in point which occurred in his own family. He further says, that he never knew a contract of the sort in which any mention was made of future offspring, though he has known cases in which men have sold both themselves and their existing offspring by the same deed. Do. No. 14. The other witness asserts, that in Rohilcund the children of persons sold into slavery during infancy by their parents are free, and the owners of their parents have no right of dominion over them. According to him also, in that part of the country the slavery of the parent in no case entails slavery on the children.

* This Registration, on a reference from the Officiating Commissioner of the Division, was ruled by the Sadder Dewanny Adawlut to be illegal. See Construction No. 312, of 2d vol. of Constructions.

† But in the Report of the Nab of Dierbhoom to the Provincial Council at Burdwan, in July, 1774, on the subject of Slavery in this district, which is given at length in a subsequent part of this Report, we find it stated, that "the law does not permit the absolute purchase of Slaves, but their father and mother being willing, they may give a written contract to serve a man for the term of 50 or 60 years, in consideration of a sum of money.—If the master is in debt, and has no other means of paying, he may make over the service of the Slave to the creditor till the term limited in the contract is expired, he being considered as part of the effects belonging to the house. After the expiration of the time limited in the contract, it is at his option either to leave his master or stay with him. Force must not be used to detain him."

We now proceed to notice the remaining sources of slavery.

V.—Marriage or cohabitation with a slave.

In Tipperah sometimes the consideration for which a freeman gives himself up to slavery is marriage with a slave girl, whom the master will not permit him to marry on other terms.

In Rajeshahy a free female on marrying with a slave descends to his condition.

In Purneah a free man by marrying a slave girl is personally degraded to slavery, but cannot be sold; and the same, according to Dr. Buchanan,* is the case in some parts of Bhaugulpore.

In Pachete, in South Behar, if a free woman marries a slave she follows his condition.

In Tirhoot, according to one witness, if a free person of either sex marries a slave without stipulation for freedom, such person becomes a slave; but according to another witness he or she continues free. No. 3.
No. 17.

One witness states, that in all the territories West of Benares, if a free man marries a slave he becomes the slave of his wife's owner for so long as he cohabits with her, but he may put an end to his servitude at any time by relinquishing his wife. But if a free woman marries a slave she becomes permanently the slave of her husband's master. No. 28.

In Rohilcund, however, this does not appear to be the usage: there, we are told, a free person is not subjected to slavery by marriage with a slave, though the free husband or wife in such cases resides in the house of the owner of the slave spouse and serves him for maintenance. Witness No. 14.

According to all the other information we have on this point, the marriage of a free person with a slave does not affect the liberty of the former.

One witness speaking of the customs in Behar and Patna says, that if a free Kurmi or Kuhar has illicit intercourse with a female slave her master seizes him and reduces him to slavery. No. 23.

VI.—Kidnapping.

The practice of Kidnapping within the British territories is not, as far as we are informed, a means generally resorted to for the supply of domestic slaves, and being a criminal offence it is reasonable to suppose that it has only a limited operation. But it certainly exists in some parts, and wherever it does occur the victims are generally female children who are entrapped and sold, sometimes to Mahomedans for concubines or servants in their zenanas, but principally to procuresses to supply the demands of their profession.

Thirty five† cases of child stealing for the purpose of selling into slavery were brought to the notice of the Police in the Lower Provinces during the years 1835-6-7 and 8.

In Cuttack the children sold to prostitutes are sometimes obtained by kidnapping.

† Cuttack	6
Moorshedabad..	1
24-Pergunnahs.	4
Naddea.....	1
Chittagong....	1
Tipperah.....	1
Dacca Jalalpoore	1
Sylhet.....	4
South Behar..	2
Behar.....	2
Patna.....	6
Saran.....	5
Tirhoot.....	1
Total	35

* See Head, "Marriages of Slaves."

Slavery in India, 1828,
p. 55-59.

A case occurred in Midnapore in 1793 of some children being kidnapped for the purpose of being sold as slaves, in which two prisoners were sentenced by the Nizamut Adawlut.

In the neighbourhood of Calcutta not only are female children kidnapped, but grown up and married women are inveigled from their families, and sold in the city to replenish the brothels—as will be further mentioned under the head of Prostitution.

Slavery in India, 1828,
p. 248.

In the city and district of Dacca in 1816 the persons sold into slavery were generally young female children or grown up girls, decoyed away from their parents or other relations in the country under pretext of marriage or other pretence, and disposed of either to public women, or to rich individuals as servants for their zenanas. This description of offence was believed by the Magistrate of the city to be very frequent, though few cases of the kind were brought officially to notice. We find the Magistrate of Dacca Jelalpore in 1829 complaining of the practice being carried on by prostitutes, and stating also that child stealing for the same purpose was prevalent, the prostitutes being the purchasers of the parties kidnapped. In the Slavery in India Papers, 1828, (p. 48-50) will be found some proceedings which took place in 1792, respecting a girl kidnapped near Dacca, and who being sold to a bawd was conveyed to Serampore;—also a case of kidnapping a female child for sale, which occurred in this district in 1817, (p. 418-19.) And on inspection of the Criminal Justice Reports for 1836-7 and 8, we find, that during that period 45 cases of “enticing away women” occurred in this zillah, and 88 of “abduction of females” in the adjoining zillah of Fureedpore, since abolished.

In Sylhet also in 1816 a system of kidnapping and inveigling free children prevailed with a view to their sale within the district, or for exportation and sale in other districts; and the Judge of the zillah expresses his belief that the practice is still carried on to some extent, and with a considerable profit to those concerned in it. The Criminal Justice Returns of this district for 1835-6-7 and 8, exhibit a total of 242 cases “of enticing away females and children.”

In the province of Behar female children are some times kidnapped in order to their being disposed of to prostitutes.

But it is in the North Western Provinces that the crime chiefly prevails.

Nizamut Adawlut Reports, vol. 2 p. 308. 447.

Two cases of kidnapping female children are among the reported cases of the Nizamut Adawlut for 1824 and 1826 for the district of Mirzapore, in the former of which the stolen child was disposed of to a woman in the city of Benares for 16 Rupees. Four out of 21 criminal trials held in this zillah in 1827-8 were for child stealing, and other cases of the kind were at the same time under investigation before the Magistrate. It appears from the Circuit Judge's Report on these trials that this description of crime was of frequent occurrence in the town and district; the children stolen, if girls, being sold to prostitutes, and if boys, becoming slaves in a distant part of the country.

Slavery in India, 1828,
p. 330.

The Magistrate of Banda (South Division Bundelcund,) in a letter to the Commissioner of Circuit, dated the 6th May 1834, respecting two cases of 24 children purchased or otherwise obtained for prostitution or as slaves, states that thirty-six

instances of kidnapping had been brought to his notice within the previous four months, and that the crime had latterly increased to an extent he had never before witnessed.

Twenty-nine cases of child stealing were reported in the Bareilly division in 1828, 15 of which occurred in the Agra district: 13 took place in the same zillah in the first six months of 1830, being three in excess of those entered in the statements for the first six months of 1829, on which the Government of Bengal, in their dispatch of 18th December 1832, observe, "the offence of kidnapping of children has been one peculiarly prevalent in the Agra district, from the facilities which existed of disposing of the children by sale in the adjoining native states; but the increase above mentioned appears to be rather attributable to the greater attention paid lately by the Magistrates in charge to the detection of such offences than to any real increase in the number of them committed."

Slavery in India, 1833, p. 330.

Ditto p. 29.

In 1821 six female prisoners and one male were convicted by the Court of Nizamut Adawlut of kidnapping female children in the city of Furruckabad. In this case it appeared that the prisoners had for some time made a trade of stealing and selling female children.

Nizamut Adawlut Reports, vol. 2, p. 66.

Of three female slaves who in 1823 escaped from the Palace of Delhi, and were eventually liberated by order of Government, two were Hindu women who had been kidnapped by Brinjaras in 1823 and 1825 from the district of Muttra, and one a Moslem female who had been decoyed from Cawnpore in 1823. All three were purchased by one of the sons of the king of Delhi, one of the Hindu females for 115 rupees, and the Mussulman female for 100 rupees. The Resident at Delhi in reporting the circumstances of this case to the Government stated, that the Palace was thronged with women of this description, kidnapped by persons employed for the purpose and bought from those persons.

Slavery in India, 1833, p. 1, 2, 37—43.

The appalling system, called Megpunnaism, which has recently been brought to light in the Western Provinces, of murdering indigent parents for the sake of obtaining their children, will be noticed hereafter.

In August 1831 the Commissioner of Delhi reported, that the Nawab of Buhardur Gurh, (15 miles West of Delhi) forming part of the Bahraitch Jagheer, had purchased 3 girls and 2 boys through an inhabitant of one of his own villages, and 2 girls from four reputed Thugs of Jhujjur; at the same time he expressed his fears that the boys and girls had been kidnapped, and very possibly their parents murdered. The Officiating Magistrate of Paniput, speaking of the slaves in the city of Delhi, says, "In some cases of Thuggee which I have seen the murders were perpetrated merely for the children, some of whom were sold in the city the same day."

Slavery in India, 1833, p. 69.

Appendix II, No. 139.

VII.—Importation.

And first of Importation by sea.

Formerly there used to be a very considerable importation into Calcutta of Hubsheer or Abyssinian slaves by Arab merchants from the Red Sea; according to one of our informants, from ten to thirty by nearly every ship. These slaves consisted of adults and children of both sexes, but the females were the most numerous; of the males many were eunuchs. They were generally bought on the East

Appendix II, No. 96.

Coast of Africa from their parents, or from slave owners, and they arrived here as Mussulmans.* Some were purchased by residents of Calcutta, but the greater part were carried up to Lucknow and other places in the interior. All were disposed of to Mahomedans, and by them employed as domestic servants.

Slavery in India, 1828,
p. 72-4.

Five Armenian lads, who had been made captive by the Mahomedans on the devastation of Teflis and sold as slaves, were brought to Calcutta in 1796, to be disposed of to the Nawab of Lucknow.

Buchanan. Martin,
vol. 2, p. 100.

Dr. Buchanan in his account of Bhaugulpore mentions having seen two Abyssinian boys in the train of a person of rank, who had commissioned them from Calcutta, on account of the character for fidelity which this nation holds throughout the East.

Slavery in India, 1828,
p. 377-381.
Ditto 1838, p. 27-28,
307-310.

In March 1824, the attention of the Magistrates of Calcutta having been drawn to the subject, an extract from the Statute 51 Geo. 3. c. 23, with a translation in the Persian and Arabic languages, was circulated by the order of Government to all the Arab merchants and other persons connected with Arab shipping resident in Calcutta, and they were desired to make known the purport of it to their correspondents in the Red Sea, Persian Gulf, and other places. In consequence of this measure and the vigilance of the Magistrates, the traffic from that time began to decrease, and the importation was thenceforward limited to a few slaves, brought chiefly by the Officers of ships from Judda and Muscat. The prices at which these unfortunate beings were disposed of rose accordingly. Formerly they were sold in Calcutta, male and female, for from 50 to 100 Rs. each; after the adoption of the above measure, a Hubshee eunuch would fetch in Calcutta 200 Rs., a Hubshee not an eunuch 150 Rs., a Mumbazi slave, who is never emasculated, 100 Rs. According to one account a negro slave could not be procured in Calcutta in 1836 for less than from 200 to 400 Rupees. At Lucknow the price of a Hubshee eunuch would rise as high as 1000 Rs., but a Hubshee not an eunuch would not fetch above 300 Rupees.

Appendix II. No. 20.

This interruption of the slave trade did not occasion any demonstration of discontent among the former purchasers, and two circumstances have since occurred which have tended still further to diminish the supply formerly received, if not altogether to put an end to it. One of these circumstances was the issue of orders by the Governments of Judda and Muscat, that no slaves should be brought round to Calcutta on ships belonging to those states, which orders are stated to have been promulgated on the information reaching those Governments that the importation had been prohibited by this Government. The other is the increased vigilance of the officers of the Custom House, since the reorganization of that establishment, consequent on the Act, No. XIV. of 1836,

Witness No. 12.

Witness No. 13.

* Mr. H. Colebrooke, in his Minute written in 1813, says on this subject: "The importation by sea consisted of a very few African slaves brought by Arab ships to the port of Calcutta. Having been led to make some enquiries into this traffic previous to its abolition, I had reason to be satisfied that the whole number of slaves imported was very inconsiderable, not exceeding annually 100 of both sexes; I found cause at the same time to be convinced that the means by which slaves are procured on the Eastern Coast of Africa for the Arab dealers, who supply Arabia and Persia, and who used to bring the small number mentioned to this port, are not less abominable and nefarious than those practised on the West Coast of Africa, consisting for the most part of the forcible seizure of the slaves, either in predatory war undertaken for the purpose, or by open robbery, often attended with the murder of the parents."—*Slavery in India*, 1838, p. 312.

passed by the Government of India, under the authority of which an officer is sent on board every ship entering the port at Kedgerree or Diamond Harbour, and remains on board until the vessel leaves the river. Previously, in 1834, at the suggestion of the Chief Magistrate of Calcutta, the Pilots of inward bound vessels from the Persian Gulf or other parts from which the importation of slaves might be apprehended, were directed to take diligent notice of, and to report to the Police office every case where they had reason to believe that any such individuals had been imported, or were still in the ships.

Slavery in India, 1838.
p. 22-3, 218-20.

Lucknow, however, has also been supplied with African slaves from another quarter. It was ascertained by the British Resident in April 1833, that eighteen persons of this description, 10 women and 8 men, had been then sold to the king and Padshah Begum by four Mogul merchants, who had brought them in an Arab ship from Mocha to Bombay, and after disembarking them at a port a few days sail to the northward, accompanied by three or four servants, conveyed them in covered hackeries via Jyepore, Ajmere and Agra to Lucknow; shortly afterwards another party of Mogul merchants and their servants were stopped within a few miles of the city with sixteen Africans, 12 females, some of them young children, and 4 boys, whom they had brought from Mocha to Bombay, and thence via Bhaonuggur, Ajmere, Agra and Furruckabad.

Do. 1838, p. 6, and the papers noted in the margin of the extract.

Secondly—Importation by land; under which title we include, for the purpose of this Report, not only the introduction of slaves from foreign states into the British territories, and from one distant portion of those territories into another, but likewise importation from one neighbouring district into another.

Forty-two* cases of sale or purchase of slaves in contravention of Regulations X. 1811 and III. 1832, were brought to the notice of the Police in the Lower Provinces during the years 1835-6-7 and 8.

* Cuttack.....	2
Hooghly.....	1
Beerbhoom.....	2
Moorshedabad.....	4
24-Pergunnahs.....	5
Chittagong.....	3
Tipperah.....	2
Sylhet.....	7
Rajshahy.....	2
Dinagapore.....	3
Purneah.....	2
Bhaugulpore.....	1
Behar.....	1
Patna.....	7
Total	42

Speaking generally, importation does not take place either into Cuttack,† or into those districts of the Province of Bengal which lie to the south of the Ganges.

Sir W. Jones in his charge to the Grand Jury in June 1785, spoke of large boats filled with children, mostly stolen from their parents, or bought perhaps for a measure of rice in a time of scarcity, coming down the river for open sale in Calcutta, and stated that there was hardly a man or woman in the town who had not at least one slave child. This wholesale supply has no doubt ceased long since, but though the Hindu families of Calcutta are now served by free people, who either receive wages or merely food, clothing and lodging, the majority of the Mahomedan, Parsee, Portuguese, Armenian and Jew inhabitants possess slaves. Here, as in other parts of the country, a great accession is of course made to the number of slaves on the occurrence of any general calamity in the neighbourhood, such as the inundation of 1834, during which, as has been already stated, children were commonly hawked about the streets of the city for sale; but in ordinary times the supply is kept up by dealers who go from Calcutta into Sylhet, Dacca, and Mymensingh, and there purchase Hindu and Mahomedan children of both sexes, whom they sell to the Mussulman inhabitants of the city as domestic slaves. It is probable, however, that the slaves thus annually imported are not many.

Slavery in India, 1838,
p. 10.

* A few children are occasionally purchased in Cuttack and taken to the Pagodas at Ganjam and Berhampore by the dancing girls attached to those Pagodas.—Slavery in India, 1838, p. 397.

Slavery in India, 1828,
p. 246.

In 1816 people of the Tipperah district used to repair to the districts of Sylhet, Chittagong, and Backergunge, to purchase slaves; and slaves were also occasionally imported into Tipperah for sale from those districts.

Do. 1828, p. 10—42.

Dacca and its neighbourhood furnished the greatest number of the children whom the low Portuguese of Dacca, Calcutta, Chinsurah and other foreign settlements, and several seafaring people of various European nations used to purchase and collect clandestinely, and export by sea from Calcutta for sale in the French Islands and other parts of India in 1785-90. We are not aware that there is now any exportation by sea of persons intended to be dealt with as slaves.

Gladwin's Ayeen Ak-
bary, vol. 2, p. 12.

The district of Sylhet has been long noted for its dealings in slaves. Abul Fazel notices it as furnishing many eunuch slaves for the Seraglios.

Slavery in India, 1828,
p. 241—248.

A slave traffic had long subsisted there to a considerable extent, but the number of slaves annually exported was in 1813 believed to be much less than previously. The practice of kidnapping or inveigling away free persons for sale as slaves was still very prevalent in 1816, but it was then believed to be on the decrease. The parties concerned in this nefarious practice were generally fakeers or wandering bazeegurs, and the persons kidnapped were mostly girls of various ages; persons of that sex being more in request for domestic purposes than males, and their price was proportionally higher. These females were carried to Dacca, Calcutta, Moorsshedabad, Patna and other opulent cities, where a rapid and profitable sale was always obtained. Many also were sold for prostitution in Dacca and other places. Nor were these arts practised only against free persons, slaves also were decoyed away from their owners by means of pecuniary rewards, or the hopes of better service, or otherwise fraudulently obtained, and sold at such distant places as to preclude their discovery or return. No less than 150 prosecutions on these charges were instituted before the Magistrate in the year 1812. Even at the present day there is some exportation of slaves from this into the adjoining districts, particularly in times of scarcity; and the practice of seducing slaves, principally women and children, from their owners, and disposing of them in the adjoining zillahs also still prevails. The place to which they are principally carried is the purgunnah of Bickrampore, near Dacca, which is inhabited by respectable Hindus, Brahmins and Kayets, among whom there is a great demand for such slaves.

Asiatic Journal, June
1839, p. 449, 452, 470.

The child stealers of Sylhet did not confine their operations to the district itself, but extended them to the adjoining territories of Kachar and Jyntiah. Of the children so kidnapped some were disposed of to wealthy natives in the district, and some were carried for sale to other places. An extensive trade in slaves is at this time carried on in the Cachar Hills. The victims of this practice, many of whom are Muniporeans, are stolen indiscriminately by all in that quarter, and some are sold to the merchants of Bengal who go up for cotton. A slave can be procured for 20 packets of salt, 7 of which are to be had for one rupee.

During the late Burmese war a great many of the inhabitants of Munipore took refuge in Sylhet, and there, constrained by distress, sold their children into slavery. People now sometimes go from Sylhet to purchase slaves in Assam.

Slaves were formerly imported into Rajeshahy from Mymensingh and Rungpore by itinerant dealers, who exposed the slaves to public sale in the markets

of the district, or sold them by private contract. These sales used to be frequent, but twenty years ago, in consequence of a boy of ten years old having been purchased in Rungpore, and sacrificed to the goddess Kali, a proclamation* was issued by order of the Nizamut Adawlut, prohibiting the sale of slaves in the markets. That traffic, therefore, ceased, and now when a person in Rajeshahy wishes to buy slaves he must either go, or send, or write to those districts, where self-sold slaves are procurable, but with some difficulty. The people of Rajeshahy supposed that the prohibition extended to all sales, and though private sales still take place, it is no longer the custom to register them, as it was previously to the proclamation, in the office of the zillah Register or Purgunnah Causey.

Witness No. 7.

Dr. Buchanan observed, that in the civilized parts of Rungpore the slaves did not appear to be on the increase, and that the importation did not seem to do more than keep up the number, although the master always procured a wife for his slave. A great part of the slaves in the Garrow Hills, he states, were brought from Assam.

Buchanan, Martin, vol. 3, p. 496.

We learn from the same authority, that about 100 slaves of pure caste were annually imported from Assam into Bengal and there sold: they were mostly children, and the girls were chiefly purchased by professional prostitutes. In 1809 the value of the slaves thus imported amounted to 2000 Rupees. "The people of (Couch) Behar," Dr. Buchanan remarks, "are willing to carry on the same trade."

Ditto, p. 693.

Ditto, p. 681.

Hamilton's Hindustan, vol. 2, p. 742, 744.

Buchanan, Martin, vol. 3, p. 496.

In 1823 the Commissioner of North East Rungpore reported to Government the case of 20 young children of both sexes, who had been kidnapped in Assam by five robbers, (Burmese or Assamese subjects) and brought into the British territory for sale.

Slavery in India, 1838, p. 376-7.

One of the public officers says, that he has good reason to believe, that the inhabitants of the chain of mountains bounding the Northern and North-Eastern parts of Bengal are in the habit of clandestinely importing slaves for sale into the adjoining districts of Bengal, particularly young boys and girls.

Appendix II, No. 26.

In the province of Behar children are occasionally brought from other districts and purchased by Mahomedans, but the Hindus are averse to purchasing for domestic purposes persons of whose caste and previous condition they know nothing.

Dr. Buchanan states, that most of the prostitutes attached to the houses of bad fame in Goruckpore are purchased from the hill tribes, and that the same is the case over most of the West of India.

msa.

Excepting in respect of Rohilcund and the Delhi territory, we have no information as to the extent to which the supply of slaves in the Western Provinces depends upon importation. We notice, however, the following cases as bearing on the subject:

In 1823 the Magistrate of Bundelcund applied to Government for authority to commit for trial two natives of the district for kidnapping children in the Rewah territory.

Slavery in India, 1838, p. 376.

In May 1834 the Magistrate of the Southern Division of Bundelcund reported to the Commissioner of Circuit the detention by the police of his district of

* We have not been able to trace this proclamation.

eleven female children, who had been purchased or procured in the neighbouring foreign territory by a Mussulman prostitute of Allahabad and despatched in bangles to her home. Two other persons of Allahabad (Mussulmen) also claimed them as having been procured by the prostitute on their account. He further reported that about the same time a covered hackery was stopped at the Sudder Station containing 13 children of both sexes "crowded together at the bottom of it, with hardly breathing room," one or two of them in a very weakly state, and who would not, the Magistrate thought, have survived their journey into the Allahabad district, whither they were in progress. The parties concerned in these cases alleged that the children had been received gratuitously from their parents or other lawful guardians.

Slavery in India, 1828,
p. 311-12.

In June 1813 the Magistrate of Cawnpore reported to the Government, that a prostitute of the town had purchased at Jhansi in a scarcity a Jaat and a Rajpoot girl for 52 and 59 Rs. respectively, and brought them into Cawnpore. The same Magistrate in the following month reported another case in which 14 men of the Jypore state had been apprehended by his Police officers with 59 slaves, women, and girls and boys of different ages and castes, from four to twenty years old, natives of the Marwar territory, whom they had brought to Cawnpore for sale.

Ditto, p. 371.

In 1821 the acting Magistrate of Allyghur applied to Government for authority to commit for trial two inhabitants of his district for kidnapping a girl four years old from the Bhurtpore territory.

Hamilton's Hindoostan,
vol. 1 p. 432, 433, vol. 2,
p. 629, 630, 635.
Asiatic Researches,
vol. 14, p. 169.
Witness No. 14.

On the conquest of Kumaon and Gurhwal, and the hill country between the Jumna and Sutlege by the Goorkhas, the land revenue was so arbitrarily assessed by the conquerors that balances soon ensued, to liquidate which the families as well as the effects of the defaulters were seized and sold. A ready market for these unfortunate beings was found in Rohilcund, (including the Rampore Jaghire,) the district of Saharunpore and at Lucknow, and many hundreds of both sexes, from three to thirty years of age, were annually imported, the traffic being carried on by a class of persons, some subjects of the Goorkha and some of the British Governments, who from their profession were designated "*Burdeh Furoshi*" or slave sellers. Many persons also, children and adults, were purchased by these dealers from their parents and relations, and sold into slavery. One of the public officers states, that in 1809 or 10 he saw at Hurdwar a large number of children of both sexes brought down from the adjacent mountains for sale at the fair; and the Magistrate of Bareilly in 1813 considered that place to be the market at which a greater number of slaves had been sold than almost any other part of the British territories.

Appendix II, No. 26.

Slavery in India, 1828,
p. 146.

In 1811 the attention of Mr. T. Brooke, the Governor General's agent in the ceded and conquered Provinces, having been directed to this traffic by an application from the Goorkha local Governors to co-operate with them for the suppression of it, that officer issued instructions to the Magistrates of Bareilly, Moradabad, Saharunpore, and Meerut, to take measures to put a stop to it, and the fact of 66 children having been immediately taken possession of in consequence of those orders by the Police of the Bareilly and Moradabad jurisdictions, furnishes evidence of the extent to which the trade was carried on. All the above children had been purchased at Nudjeebad and Auggunah, which were the established marts where these victims of oppression were collected in hundreds.

Ditto, p. 111-119.

The circumstances thus brought to light led to the enactment of Regulation X. 1811, and the Government in a despatch to the Hon'ble Court of Directors, dated the 30th January 1813 observed, that the statements of the local officers afforded every reason to believe that the new law had been "fully effectual in the Bareilly division in preventing the importation of slaves by land from foreign countries." We fear, however, that such was not the case. We see traces of the same traffic in the report of the 2d Judge of the Bareilly Court of Circuit, dated 9th September 1815, in which Cassepoore and Roderpoore are mentioned as "the markets for slaves imported from the hills;" and one of the witnesses examined, who is a native of the Rampore Jaghire, though for the last thirty years resident in Calcutta, states that the trade is still carried on by the Burdeh furoshes, but clandestinely and only to a very small extent.

Slavery in India, 1808
p. 135-4.

Ditto, 1828, p. 242.

No. 14.

In April 1837 17 female children, mostly from eight to ten years old, but 2 or 3 of a still more tender age, were discovered by the Joint Magistrate of Kasheepore (district of Moradabad) secreted in the houses of two prostitutes of the town; and it appeared from the evidence of these children, that their parents, inhabitants of the hills of Kumaon, had sold them to the parties in whose houses they were found. A proof that importation, at least for the purpose of a supply of prostitutes, still goes on.

Slavery in India, 1838,
p. 367.

An extensive traffic in slaves was also formerly carried on between Rajpootana, and the Delhi territories, and through them to other adjacent countries. In 1808 measures were taken by Mr. Seton, the then Resident at Delhi, and Rajah Zalim Sing of Kotah to check the practice of kidnapping children in the country of the latter, and selling them in the Delhi territories. The sale of children in the assigned* territory was prohibited unless the right of the seller was clearly established, and the slave merchants were ordered by the Rajah to quit the Kotah territories.

Ditto, 1828, p. 28-29.

In 1813 Sir C. Metcalfe, then Resident at Delhi, in writing to Government on the subject of a proclamation for the suppression of the slave trade mentions, that a few days previously a native of Peshawar, a professed dealer in slaves, had brought to Delhi a number of children from Rajpootana, whom he was carrying to his own country for sale; and that instances had occurred of persons passing from Rajpootana through the Delhi territory with children to Rampore in the Rohilla Jaghire, where, he observed, "the importation and sale of slaves continues unrestricted." In the despatch to the Court of Directors, above quoted, the Government concludes from a report of the Resident at Delhi, that Regulation X. of 1811, had the same beneficial effect in the Delhi territory as in the Bareilly division. The officiating Magistrate of Paniput, however, speaking of the present state of slavery in the city of Delhi, says, that it consists chiefly of females who are stolen or purchased in Rajpootana, and brought to Delhi for prostitution.

Ditto, p. 109.

For an account of the dreadful extent to which slavery, particularly of females, prevails in Central India, and the various modes by which the supply is kept up, reference may be made to the late Sir J. Malcolm's work on Central India.—(Vol. 2 p. 199-204. Edition 1823.)

* The City of Delhi and the conquered territory on the right bank of the Jumna, the revenues of which are assigned to His Majesty the King of Delhi.

From the volume of Papers on East Indian Slavery, printed by order of the House of Commons in 1838 (p. 4-8 and 55-69), it will be seen that measures were adopted by the Indian Governments in 1832-3 for the suppression of the slave traffic in the native states subject to their influence. We find from the correspondence there recorded, that a traffic carried on by regular slave merchants at Kotah and Boondee by the import of slaves, chiefly females, from other parts of the country was an avowed and considerable source of revenue; a large proportion of the persons thus consigned to foreign slavery were supposed to be kidnapped, that nefarious practice prevailing throughout Rajpootana, Malwa, and Goozerat to the sea. It appears also that slave markets were established in the Camp at Gwalior, and many of the persons there disposed of were decoyed or kidnapped from the neighbouring districts in the Company's territories, and that some of the traders themselves were native British subjects. Of course the recovery of kidnapped children, when once immured in the zenanas of wealthy and influential people, is next to impossible.

VIII. — Birth.

It is a general principle that the offspring of slave parents are slaves. This will be more fully noticed under the head of marriages of slaves and ownership of their offspring.

No. 20.

Buchanan. Martin, vol. 2, p. 99, and MSB.

In respect of illegitimate offspring of a female slave, one of the witnesses examined as to the state of slavery in Bhaugulpore says, that he never heard of an instance of a slave girl having an illegitimate child, their conduct being as strictly and jealously watched over as that of a daughter. We learn from Dr. Buchanan, however, that when young the slave women are usually alleged to gratify their master's desires, and he mentions that among the Kayets in this district there were, when he visited it, about one hundred families called *Krishnapakshyas*, or bastards, being descended from Kayets and slave women chiefly of the Dhanuck caste.

Ditto, vol. 1, p. 479-80.

In Shahabad when a master has a child by his female slave, it is not removed from the state of slavery, the father only endeavours to procure for his child a marriage with another of the same spurious breed. Dr. Buchanan, on whose authority we state the above practice, infers that such connexions are numerous from the price of young women being higher than that of men.

In Tirhoot the illegitimate children of a slave woman are the property of her master.

There are two parts of the country in which we are told certain illegitimate children of free parents are considered as born in a state of slavery.

No. 6.

No. 9.

In Cuttack the illegitimate offspring of Hindus of the higher castes by free women of low caste are slaves. There is some discrepancy, however, in the evidence on this point. One witness (a Hindu) considers this to be a source of Mahomedan slavery only, describing the persons whose slavery originates in this manner as the illegitimate offspring of women of low caste, whether slaves or freewomen, by Mahomedan fathers. Another witness (also a Hindu) first described this class as including both Hindu and Mahomedan slaves, stating them to be children or descendants of men of high caste (excepting Brahmins) or of Mussulmans by concubines of the inferior classes; but being more particularly questioned on this point he said, that the spurious offspring of a Mussulman by a

woman of low caste would not be slaves. The officiating Judge of the district describes this race of slaves to be the illegitimate children of Hindus by women of a lower caste.

Appendix II. No. 7.

In Benares and its neighbourhood a child begotten by a Rajpoot on his concubine is a slave, as are likewise all its descendants. The witness who gives us this information says, "the begetting of slaves upon concubines is a practice which is not openly avowed though it is done frequently, but in the Deccan this is done openly without scruple."

No. 28.

THE CASTES TO WHICH HINDU SLAVES GENERALLY BELONG.

In Cuttack the Hindu domestic slaves consist of such low castes as are considered pure: viz. Sudra proper, Gowala, Gowria, Chasa, Khundait, Agari, Busbunna, Barhai, Lohar, and Tanti.* Slaves of the impure castes are: Dhobee, Chumar, Gokha, Teli, Gola, Kewut or Kybert, Rungree, Raree, Pan or Pandra, Kundra, Napit, Baorce, Bagdee, Hari, Dome.

The owners of domestic slaves in this district are principally Mahomedans and Hindus of the Kayet† caste, though some Rajahs and Zemindars who are Khundaits, Rajpoots and Kettryas, also keep them. But no Brahmins ever employ domestic slaves, having been prohibited so doing by Rajah Pursottem Deo‡. The reason of this prohibition does not appear, but it has continued in force ever since. The Byse sect are also precluded from the use of domestic slaves by the principles of their caste. The slaves of the impure tribes, who are employed exclusively in outdoor work, are kept by all classes of people who can afford it.

In Tipperah there are two classes of Hindu slaves, the Kayets, who are a pure caste; and the Chundals, who are impure.

In some parts of Dacca Jelalpoore the majority of the Hindu slaves are Kayets, and some few are Napits and Gowalas; in other parts all kinds of Sudras are to be found occasionally in a state of slavery, except Kayets.

In Rajeshahy the Hindu slaves are of the Kyburt, Kayet, Jalia, and Mali castes, and generally of all the low tribes; nor is there any caste so vile as to be incapacitated for slavery.

In Purneah they are Kewuts or Kyburts; and in the west of the district Dhanucks and Amats.§

Throughout the Province of Behar, excepting Pachete and the district of Firhoot, the slaves are principally of the two castes of Kurmis|| (called also Juswar-Kurmis and Dhanucks,) and Kuhars, called by Dr. Buchanan Rowanis. Slaves of

* In Southern Cuttack however the Tanti is considered an impure caste.—Witness No. 9.

† Subdivided into Myntea or Oriah Kayets, Bengal Kayets, and Lala or Western Kayets.

‡ There were two Rajahs of this name in Cuttack. The first reigned from A. D. 1478 to 1503, the second from A. D. 1609 to 1630.—Stirling's account of Cuttack, p. 117—121, 132.

§ "Cultivators of a tribe of pure Hindus, who are divided into those who are free (Geruya) and those who are slaves (Khawas)."—Buchanan MS.

|| Dr. Buchanan distinguishes between the Kurmis and Dhanucks, as will be presently noticed. According to him the slaves in Bhaugulpore are either Dhanucks or Rowanis; in Behar and Patna also by far the greater number are of the same two tribes, though there are some Kurmis; in Shahabad most of the slaves are of the Rowani caste, and the remainder Kurmis, with a very few Dhanucks at Arrah, the Dhanucks in this district not being slaves.—Buchanan, Martin, vol. 2, p. 99—vol. 1, p. 195, 479.

both these tribes are employed in the same menial offices and in agriculture, the only difference which exists between them is that the Kuhars, being of inferior caste, carry palankeens, which the Kurmis do not. But in Bhaugulpore the Kuhars are considered impure and are therefore consequently less useful as domestic servants, they are also less numerous.

In Pachete in South Behar the Hindu slaves are in general Kayets, Koomars, Kamars, Kurmis, Chasas, Kyburts, and Bhuyans; the Kayet slave being very rare. The slaves in the family of the Rajah of Pachete are spurious Rajpoots.

Buchanan, MSS.

In Shahabad some of the Khanwar tribe are slaves to the Brahmins.

Witness No. 3.

In Tirhoot the slaves are all Kyburts, commonly called Kewuts, but these, according to our informant, are subdivided into Kyburt proper, Dhanuck, Amat, and Kurmi. The slaves of these several classes are nearly the same in regard to purity, and are employed indifferently in indoor and outdoor work. The great majority of the Kyburt caste in this district are slaves, but the great proportion of persons of the other three classes are supposed to be free.

Buchanan. Martin, vol. 1, p. 497.

In Goruckpore, as we learn from Dr. Buchanan, the slaves, except on the boundaries of Sarun, have all been received in marriage presents from Behar. In the police division of Parraona, bordering on the Sarun district, there are 250 families of slaves of the Kurmi tribe, mostly employed in agriculture. There are also about 30 families of the Khawas tribe settled on the private estate of the Rajah of Palpa in the plains of this district. These Khawas, like the Rowanis, are all slaves, and are said to have accompanied the Chauhan Raja, when that chief retired from Chitore to the hills, and to have carried his baggage. They have ever since continued in the service of his descendants, and are partly employed in the cultivation of their lands, partly as the most confidential domestics.

Ditto, p. 471.

In Benares and its neighbourhood the Hindu slaves are Kurmis, and Kuhars and the spurious descendants of Rajpoots by their concubines.

In Allahabad Kuhars, Ahurs, and Chumars.

In Etawah Kurmis, and Kuhars.

In Rohilcund Brahmins, Rajpoots, and Kurmis, of the pure castes; and Chumars, and Kolees, of the impure tribes.

The following account of the Kurmi, Dhanuk, and Rowani tribes, who constitute the greatest portion of the slave population in the Province of Behar, and in some of the districts of the Western Provinces, is taken from the reports of Dr. Francis Buchanan.

Buchanan. Martin, vol. 1, p. 166, 492—vol. 2, p. 468-9, and MSS.

The Kurmi tribe is one of the most generally diffused and numerous tribes in India. On the right of the Sarayu or Gogra river it is most commonly called Kunmi, or Kunbi, by which name it is also known in Mysore. In Malwa it has risen to great power by the elevation of Sindhya, who was a Kurmi, to the government of Ujjain, and at his capital the Kurmis are reckoned Rajpoots. They seem to be the original tribe of military cultivators of the countries from whence they came, and some of them carry arms, as is usual with the pure agricultural tribes, who appear to be aboriginal Hindu nations, that were not of sufficient

consequence to be admitted into the order of Khetrees, but too powerful to be thrust into the dregs of impurity. There are various subdivisions of this tribe : viz. Saithawar or Ayodhia, Jasawar, Sungawar, Kurmi, Chandani or Chandami, Akharwar, Magahi, Ghaureta, Patanwar, Kanojiya, Gujarati, Dhalphor or clod piercers, Kuchisa, Desi. Most of these designations appear to be national distinctions. The Jasawars are thought to have come from Jayasa, a great manufacturing country. South East from Lucknow. The Patanwars (which name implies citizens) probably from their being confined to the vicinity of Nindaur, Patana, the old capital of the Siviras. The origin of terms Ghameta and Chandani could not be ascertained. The Desi are a spurious race.

✓ In Purneah there are about 400 families settled in different parts of the district, where they are mostly cultivators, but some carry arms, and some are domestic servants, though not slaves.

In Bhaugulpore there are between 14 and 15,000 families, most of whom are settled in the western parts of the district, south of the Ganges, but a good many also in the Feizoolagunje division. Of these families one-half and more are Sungawars; one-fourth, Kurmis; one-eighth, Chandanis; one-eighth, Ayodhias; a few Jasawars.

In the Behar and Patna districts there are about 4500 families, cultivators, and some carry arms; one-half and more are Magahis; one-sixth, Ghametas; one-seventh, Ayodhias. The remainder consist of Kurmis properly so called, who are very few, Sungawars, Jasawars, Kuchisas, Chandanis, and Desis.

In Shahabad there are about 1700 families; they sometimes still carry arms, although the great number of idle gentry has in a great measure thrust them out of their employment—40 per cent. are Ayodhias; 25 do. Patanwars; 20 do. Jasawars; 8 do. Kanojiyas; 6 do. Magahis; 1 do. Chandanis. Some of the Jasawars are slaves.

In Goruckpore there are about 44,335 families; of whom 52 per cent. are Saithawars (Ayodhias); 38 do. Jasawars; 6 do. Gujaratis; 2 do. Dhalpors; 1 do. Patanwars; 1 do. Chandanis or Chandamis, and Akharwars. The Kurmi tribe obtained the whole property in the division of Parraona in this district, bordering on Sarun. The families reckoned among the Ashruf or gentry of the district amount to about 110 houses, all willing to carry arms, and some do so. The Patanwars and Saithawars, unless exceedingly poor, will not hire themselves as ploughmen, nor on any account act as domestics; but all, except the Ashruf families, are willing to plough, and except the two above mentioned tribes, all are willing to be domestic servants.

The Dhanuks are another pure agricultural tribe, who, from their name implying archers, were probably in former times the militia of the country, and are perhaps not essentially different from the Kurmis; for any Jasawar Kurmi who from poverty sells himself or his children, is admitted among the Dhanucks. All the Dhanucks at one time were probably slaves, and many have been purchased to fill up the military, a method of recruiting that has been long prevalent in Asia. The Province of Behar is the country where the Dhanuks appear chiefly to abound. There are also various subdivisions of this tribe, the names of which are local distinctions.

Buchanan. Martin.
vol. 1, p. 166-7, 402, and
MSB.

In Purneah they are by far the most numerous in the western parts of the district. They are there a tribe both of Mithila and Magadha, a considerable portion

being called by the name of the latter country, and these, and a few called Dojwar, are reckoned the highest. The most numerous by far are those of Mithila, who are called Sriyata, and there are many slaves, who are called Khawas.

In Bhaugulpore the Dhanuks do not exceed 8 or 9000 families, divided into Silkhatrya, Maghiya, Jasawar or Yasawar, Tirahuti, and Kanojya. A great many of them are slaves employed in agriculture, and most of the unfortunate persons in the district reduced to this state, belong to this tribe. In some parts of the district it was alleged, that if a person procured a slave of any caste, the Dhanuks would receive the unfortunate man into their society; but in other parts the slaves pretend to be as nice as their masters.

In Behar and Patna there are about 7000 families of this tribe, of whom more than half are Yasawars, (Jasawars.) The next most numerous are Dhanuks (without any addition); then Magahis, Dojwars, and Chilatyas.

In Shahabad the Dhanuks are only about 320 or 340 families; about half Kanojyas, the rest Chilatyas.

Buchanan. Martin,
vol. 1, p. 167-8, 492—vol.
2, p. 99, 471.

The Rowani Kuhars, called in Bhaugulpore Maharas, claim a descent from Jarasandha, King of India, in the 11th or 12th century before the birth of Christ; nor is this claim disputed by any except the Brahmins, who allege that this King was a Kshatri, and not a Rowani; but this cannot be considered as a valid objection, because some of the descendants of Viswamita, a kinsman of Jarasandha, are allowed to have been Brahmins, some Kshatris, and some even Mleechchhas. The tradition is so general, that in all probability these Rowanis are descended from the tribe which, during the government of the Brihadrathas, was master of the country. Magadha seems to have been the original seat of this tribe, the number to be found any where else being very trifling. The Rowanis have been entirely reduced to slavery,* nor does any one of them pretend to a free birth.

In Bhaugulpore, Dr. Buchanan says, the Rowanis do not sell their children.

In Behar and Patna the Rowanis amount to about 10,000 families; they are all willing to carry the palankeen, but not one-sixteenth of them are regularly employed in that way, and these have chiefly gone to cities for employment.† The remainder are cultivators, but carry palankeens at marriages, or other ceremonies, and at leisure hours catch fish for their own use.

In Shahabad they amount to about 6,500 families, chiefly employed in agriculture, but perhaps 600 families of these are entirely domestic servants; a large proportion are slaves.

In Goruckpore the Rowanis are confined to the parts adjacent to Mithila, and are only 116 families, and these are held on the borders of impurity.

* Dr. Buchanan, in his accounts of Behar, Patna and Shahabad, mentions two other tribes, the Kharwars and Bhars, who, from being governing and military tribes, have also been reduced to the condition of carrying the palankeen.—Buchanan. Martin, vol. 1, p. 168, 493-5, and MSS.

† The Patna Provincial Council, in their letter of 4th August 1774, on this subject, say "They date the rise of the custom of Kuhar slavery from the first incursions of the Mahomedans, when the captives were distributed by the General among the officers of his army, to whose posterity they remained."—Slavery in India, 1828, p. 5.

† "Palankeen bearers are very numerous in these two districts, and many go to Calcutta for service; but most of the bearers supposed there to come from Patna are in fact from Sarun, and the two descriptions of people do not live together, those of Patna being chiefly of the Rowani caste, and those of Sarun being mostly Kharwars."—Buchanan. Martin, vol. 1, p. 124.

Throughout the greater part of the Behar Province the Kurmis or Juswar-Kurmis or Dhanuks, and the Kuhars, are regarded as being essentially of a slave stock, a tradition prevailing (which however does not appear to extend to Tirhoot) that all persons of these castes were formerly slaves. The truth of this as far as relates to the Dhanuks and Kuhars is, as we have seen, confirmed by Dr. Buchanan. At the present day the Kurmis or Dhanuks may be said to exist in three conditions; 1st.—Those who are actually slaves; 2d.—Those who are practically free, but have the taint of slavery derived from slave ancestors; 3d.—Those who are absolutely free, and without any taint of slavery. The Kuhar or Rowani tribe appear to exist in the two first conditions only.

In most parts of the Behar Province it is reckoned disgraceful to sell this kind of property, many masters, therefore, who can give their slaves no employment, and cannot afford to maintain them, allow them to do as they please, and to procure a subsistence in the best manner they can. The Patna Council, in their report of 4th August, 1774, say “the palankeen bearers in this Province are all of this latter (the Kuhar*) tribe, and belong to some person or another, though allowed to intermarry, labour for themselves, and act at their own discretion, the same as if no such nominal bondage subsisted. The masters of these slaves, to avoid the expense of their personal attendance, suffer them to work elsewhere for a livelihood.” On the death without heirs of the owner of a slave thus situated, the slave becomes entirely free, no one claiming him; and even without such a contingency, many doubtless, through the continued inability of their masters to maintain them, are annually passing from this state of partial separation to one of practical freedom, though it is well known who their masters are. Others, when dissatisfied with their situation, quit their master’s service, and eventually establish their independence, it being seldom worth the master’s while to incur the inconvenience of an attempt to reclaim a fugitive slave. In a general calamity also, when whole families perish, many slaves are left without any assignable masters, and if in these dreadful visitations many freeborn persons are driven by necessity into a state of slavery, many slaves are at the same time released from their servitude.

Slavery in India, 1830,
p. 5.

A person of the Kuhar tribe, however, absolutely free, is not supposed to exist, at least in the Behar and Patna jurisdictions, and when claimed will never pretend to be ‘Gurua’ or unowned. One witness states that persons of this tribe are sold by their owners, but never by any one else. The Patna Council, in their letter above quoted, say, “It seems, that on the sale of a (Kuhar) slave, who separately procures his own subsistence, only one-half of the price is received by the owner, the other half going to the parents of the slave;” but this has not been confirmed by the evidence of the witnesses examined by us. According to Dr. Buchanan, in Behar and Patna a good many of the Rowani caste are practically, and in Shahabad many have become entirely, free.

No. 4.

Buchanan, Martin, vol.
1, p. 126, 167, 492.

Although, generally speaking, the sale of free persons into slavery within the Province of Behar, is confined to the castes which have been specified above, yet in times of urgent distress persons of all the lower labouring classes, such as Gowalas Baris (or Bharees), Buruhees and Napits do, in some parts of the province, sell their

* It may be remarked that the Patna Council in their letter comprehend all the slaves under the two designations of Mussulmans or Moolasadas, and Kuhars, and make no mention of Kurmis.

children. In times of general calamity even Brahmins and Khetrees have been known to do the same, but such sales are not considered valid, and it is reported that after the famine of A. D. 1770, persons who had purchased high caste children during the distress, returned them to their families on becoming apprized of their condition. In such seasons also, free persons, not of the ordinary slave castes, sometimes give up their children to be maintained and brought up by persons in good circumstances, but no price is taken, and the children are not slaves though they perform domestic service.

* In Rohilcund, which is inhabited chiefly by the descendants of the Afghan settlers, this deference to caste does not prevail; and there slaves of the Brahmin and Rajpoot tribes, in common with those of the ordinary classes, may be kept by all descriptions of persons. The sale of children of these two castes, however, is not frequent even in that part of the country.

MUSSULMAN SLAVES.

The Mussulman slaves consist,—1st. Of Mahomedans of the labouring classes; who have sold themselves, or have been sold when children by their parents; and the descendants of all such.—2nd. Of Hindoos, who, having sold themselves to Mahomedans, have embraced the religion of their masters, or who, having been sold in childhood to Mahomedans, have been brought up in the Moslem faith; and the descendants of all such.

In Cuttack the Mussulman slaves are supposed to bear a less proportion to the free Mussulman population, than the Hindoo slaves to the free Hindoo population.

No. 5.

In Sylhet, it is stated by one witness, the greater part of the poorer classes, as of the whole* population, are Mahomedans, and as it is the lower orders who sell themselves or their children in times of scarcity, of course the greater part of the slave population are Mahomedans. There is also in this district a class of Mussulman out-door slaves, who are supposed to be low caste people who have embraced Mahomedanism, but have retained their servile state.

In the Province of Behar the labouring classes of Mahomedans who sell themselves or their children into slavery, are principally of the Joolaha caste; but also Dhoonnias, Domes and Sekaras. The respectable classes of Mussulmans, viz.

* The following were the proportions of Mahomedans to Hindus in the undermentioned districts, according to the Reports of 1801:—

Jessore.	9 to 7
Chittagong.....	3 to 2
Dacca Jelalpoore.....	equal
Sylhet.....	2 to 3
Rajeshahy.....	1 to 3

—Hamilton's Hindustan, vol. 1, p. 135, 169, 189, 193, 198.

But the population Returns for Rajeshahy in 1834 gave a proportion of 1000 Mahomedans to 587.8 Hindoos.

Mr. Adam's Second Report on Education in Bengal, p. 6.

According to Dr. Buchanan, the proportion of Mahomedans to Hindoos in the districts of Rungpore, Dinagepore and Purneah, was as follows:—

Rungpore.....	10 to 9
Dinagepore.....	70 to 30
Purneah.....	43 to 57

—Buchanan. Martin, vol. 2, p. 723,—vol. 3, p. 144, 512.

Syuds,* Sheikhs,† Patans and Malaks‡ cannot, according to the custom of the country, be slaves; though in times of extreme distress, such as famine, even Syuds, like Brahmins and Khetrees, have been known to sell their children.

Hindoos who on becoming enslaved to Mahomedans have adopted or been bred up in the religion of their masters, are in this province called "Moolazadas," literally "born of the priest," though the term is there sometimes applied indiscriminately to all Mussulman slaves. In some parts of the country it is not known, and we are informed that the practice of changing the religion of the slave, though formerly very common in the Behar province, is now little resorted to there, the Hindoo slave of a Mahomedan master retaining his own faith and being employed in outdoor work.

In Bhaugulpore the Hindoos do not sell their children to Mahomedans, but they do so sell them in the districts of Behar, Patna and Tirhoot.

In the Hazarcebaugh and Lohurdugga divisions of South Behar there are no Mussulman slaves.

In the districts of Behar and Patna, according to Dr. Buchanan, there were 2,850 families of Moslem slaves, there called Moolazadas, whom he places in a list of persons converted to the Mahomedan faith, but adhering to the doctrine of caste in full vigour, and therefore excluded from communion. Buchanan, Martin, vol. 1, p. 145-6.

In Shahabad he estimated the number of Moslem slaves (there also called Moolazadas,) at 510 families, who were mostly employed in agriculture. Ditto, vol. 1, p. 489 and 488.

In the district of Etawah 30 years ago, there were few Mahomedans in so low a condition as to be obliged to sell their children. Witness No 26.

With regard to the domestic slaves of Mahomedans of rank, and particularly those females, who, being bought while children on account of their appearance, are bred up, under the name of *Laundis*, or slave girls, to administer to their masters' pleasures, Dr. Buchanan mentions he could obtain no estimates in the districts he visited. In his account of Purneah he observes, every thing concerning the women of such persons being veiled in the most profound mystery, no estimate could be procured of their number; but this is a luxury in which almost every Mahomedan of fortune is supposed to indulge as far as he can afford." He believed that in Bhaugulpore there were many such, as the chief persons in the district were Mahomedans, and some of them had dealt to a ruinous length in such property; and in the division of Monghyr alone the Moslems had 50 male (*Gholams*) and 70 female (*Laundis*) domestic slaves. He thought it probable that in Goruckpore female slaves were purchased, to administer to the pleasures of wealthy Mahomedans, from the mountaineers, many of whom were ready to dispose of their children. Buchanan, Martin, vol. 3, p. 121.
Ditto, do, vol. 2, p. 100.
Ditto, p. 427-8.

HINDOO MASTERS OF MAHOMEDAN SLAVES, AND VICE VERSÂ.

Generally speaking, the Hindoo masters have Hindoo slaves, and the Mahomedan masters Mahomedan slaves. A Hindoo slave of a Hindoo master if converted

* The descendants of the Prophet.

† The descendants of his companions.

‡ The descendants of persons who have received titles from the sovereign.

to Islamism, would become unfit for domestic uses, but he would continue a slave and might be employed in outdoor work.

In Mymensingh the sale of children by Mahomedans to Hindoos is common, but not the converse.

In Sylhet, where, it is said, the Mahomedan population exceeds the Hindoo, the poorer Mahomedans do not object to sell themselves to Hindoo masters; and there a great many Hindoo masters have Mahomedan slaves, but very few Mahomedan masters have Hindoo slaves.

Buchanan. Martin, vol.
3, p. 497.

Of Rungpore Dr. Buchanan observes, "the domestic slaves of the rich are almost entirely of castes that the masters consider pure. A rich Hindoo would not accept of a Moslem slave, and still less of one of impure birth. It is among the Mahomedans that the custom of nourishing poor children is chiefly practised."

In South Behar the Hindoo slaves are in the possession both of Hindoos and Mahomedans.

Appendix II. No. 25.

The possession of slaves does not appear to be confined to Hindoos and Mahomedans. The Judge of Moorshedabad says, "Slavery, I believe, exists in Bengal as in the Upper Provinces; and as far as I can learn,—Mahomedans, Hindoos, Armenians, Jews, and East Indians, all hold slaves;" and the Judge of Mymensingh mentions that "children are often purchased by Protestants, Roman Catholics, and also Greeks, and brought up not as slaves, but menials, in the creed of the purchaser."

Ditto, No. 47.

THE EXTENT OF THE MASTER'S DOMINION OVER HIS SLAVES.

Slaves are both heritable and transferable property; they may be mortgaged and let to hire; and they can obtain emancipation only by their owner's consent, except in some special cases.

It appears to be the generally received opinion that the earnings of a slave belong of right to his master; that he has no right to any portion of his own time wherein to work for his own benefit; and that he can hold no property acquired in this condition as against his master, excepting such things as the master himself may give him. In practice, however, the master would not deprive his slave of any thing given him by another person, and by the indulgence of their owners the slaves, particularly those of great people, frequently do possess property, which on their death descends to their heirs. This indulgence is in some places so general that the public officers of several districts regard it as the established custom.

Ditto, No. 14.

According to the acting Joint Magistrate of Midnapore, "the property of the slave at his death goes to the nearest of kin, and only to the master in the event of his leaving no relation."

Ditto, No. 40.

According to the Joint Magistrate of Noakhollce,* "the property of a slave is his absolute property. He may dispose of it as he pleases, and his heirs succeed to it. If he die without heirs it goes to his master."

Ditto, No. 47.

The Judge of Mymensingh says, "I am informed it has not unfrequently happened, that a slave has purchased the freedom of himself and family from his

* The jurisdiction of this officer comprises portions of the Districts of Backergunge, Tipperah and Chittagong.

savings,—thus establishing that the property possessed or realized by a slave in servitude is his own. The property however of a slave reverts generally to his master at his death." "If there is at the marriage of a slave an understanding that his progeny are not to be slaves then the children would succeed." "But," he adds, "slaves seldom have any thing to leave of their own; their clothes, and every thing they have on or what they have for use, belong to their masters, who provide them with every thing, and unless he becomes a minion or favourite, it is impossible for him to accumulate any money."

The same officer states that the property of eunuch slaves, who are only retained in the families of Nawabs and very wealthy Mahomedans, invariably devolves on their death to their masters, and he states on the authority of one of the late Government Agents at Moorshedabad, that many landed estates have thus reverted to the Nawab Nazim of Bengal.

The Judge of Dinagpore remarks, that his informants differed on the subject of the master's right to the property of his slave, "some thinking that slaves are free to acquire any property they can without its being liable to be seized, claimed or interfered with in any way by their masters, only that on their death the master can only be looked upon as the legitimate person to whom any property left would descend; while others consider that they can create no property for themselves, that all they make belongs to their master."

Appendix II. No. 59.

The Agent to the Governor General in South Behar says, "by the custom of the country the master has no right over the property of his slaves, and in the event of the death of one leaving considerable property, which is not a rare circumstance, the property is inherited by his wife and children, although they may belong to another master."

Appendix II. No. 64.

In the zillah of Tirhoot it appears to have become the established usage that the slaves enjoy, and dispose of as they please, any property which they may acquire by working for others than their masters at times when the latter do not require their services.

A Mussulman master has, by the Mahomedan law, a right to exact the embraces of his female unmarried slave of the same religion; but not of his Hindoo slave. But if a slave so subjected to the embraces of her master has a child by him, she is called "*Um-mool-wuld*," i. e. the mother of offspring, and becomes free at his decease, and the child so born is free.

Slavery in India, 1838, p. 304, & Witness No. 4.

In Rohilcund, and most probably all over India, it is a common practice for Mahomedan masters to avail themselves of this privilege; and sometimes the masters are married to their female slaves in the *nikah* form.

It will be seen from some of the preceding details* that in Bhaugulpore and Shahabad Hindoo masters also allow themselves a considerable license with their female slaves, and by the Hindoo law likewise, whenever a slave girl has borne a child by her master, such slave, together with the child, becomes free. Among the Garrows in N. E. Rungpore, a man cannot keep a slave girl as a concubine.

Slavery in India, 1838, p. 307.
Buchanan. Martin, vol. 3, p. 693.

* See Head "Origin of Slavery,"—8. Birth.

THE MODES IN WHICH SLAVES ARE EMPLOYED.

The slaves are employed either as domestic servants or outdoor labourers ; and sometimes in both ways. The duties of domestic slaves are, drawing water, pounding rice, and, generally, performing whatever services may be required about the house, including cooking if the family be Mahomedan. The males attend on their masters, and the women on the females of the family. Domestic slaves are commonly entrusted with the custody of the valuables of the house.

The duties of the slaves who are employed as outdoor labourers are, carrying loads, cutting wood, tending cattle, ploughing and other agricultural occupations.

For the domestic service of a Hindoo family it is necessary that the slave should be a Hindoo of pure caste, otherwise the family could not drink* the water drawn or brought by him, and would be in danger of pollution from him in various ways. Though strictly speaking perhaps, a master has a right to exact from his slave every species of labour proportioned to his ability and strength, it is not usual, and would be considered a harsh exercise of power, to require from a Hindoo slave of pure caste any service unsuitable or derogatory to his caste ; and indeed any impurity contracted by the domestic slave of a Hindoo master, which must necessarily be communicated to his employer, would affect his usefulness. Such slaves, therefore, are not usually employed in the meanest offices ; but in case of the illness of the master or other emergency, the slave would perform whatever was required of him.

To give an example of the manner in which a Hindoo slave of pure caste might be unsuitably employed ; we are informed, that in the district of Cuttack it would be derogatory to persons of the pure tribes to work in company with persons of the impure tribes ; some of the latter being considered so very unclean that purification by washing becomes necessary after even accidental contact with them. To avoid exposure to such contamination, therefore, the slaves of pure caste, when employed in outdoor work, are in this district kept separate from the impure classes. We are further informed by the witnesses whom we examined respecting the state of slavery in this part of the country, that formerly all persons of the impure tribes lived in separate villages, and gave the road whenever they happened to meet a person of pure caste, but since the district came under British† rule they have become more independent : it is still, however, usual with them either to yield the road to a person of pure caste who happens not to observe them, or to give him timely warning that by retiring he may avoid pollution. This perhaps is a solitary instance of such extreme deference paid to superior caste within the provinces under the Bengal Presidency, and is to be accounted for by the fact that neither the Mahomedans nor any other invaders ever completely occupied or colonized this district, which still remains one of those in

Nos 6 and 9.
Appendix I.

Hamilton's Hindustan,
vol. 2, p. 34.

* "The natives always lift a vessel by putting their thumb in the inside, and their fingers without, so that the thumb is immersed in whatever liquor the vessel contains. It seems to be owing to this circumstance that so much anxiety is observed in taking water to drink out of the hand of impure tribes. Actual cleanliness is quite out of the question, no people on that point being more careless than the Hindoos ; but they are afraid of taking water from the hand of a person whose thumb may have been soaked in an ox's gore before it was thrust into their drink."—Buchanan. MSS. (Shahabad).

† A. D. 1803.

which the Hindoo manners are preserved in their greatest purity, and where the smallest proportion of Mahomedans is to be found.

In Cuttack the slaves of pure caste are employed both in domestic and agricultural labor ; those of impure caste, of course, only in outdoor work.

In the districts of Bengal south of the Ganges the slaves appear to be almost exclusively employed as domestic servants.

In Sylhet they are chiefly used in agriculture.

In Rajshahy there are some estates in which the greater part of the cultivators are slaves.

Of the few slaves in Dinagepore some are domestic and some agricultural.

Buchanan. Martin, vol. 2, p. 914.

The following details respecting the slaves in Purneah are taken from Dr. Buchanan's account of that district. Ditto, vol. 2, p. 193-5, and MSS.

Distribution of the male adult slaves :

1—Slaves entirely domestic.....	790
2—Khawas, or slaves partly employed in agriculture, partly in service.....	1,700
3—Slaves mostly employed in agriculture.....	3,650
	<hr/>
	6,140

But he was very uncertain what proportion was really employed in agriculture, and what as domestics.

The first "are chiefly domestics, although they are sometimes employed to tend cattle, to dig, to build houses, or in such kinds of labour. These live entirely in their master's houses, but are always allowed to marry. Their children are slaves, and their women act as domestic servants. These are not numerous, and chiefly belong to Mahomedans."

"The second class belongs chiefly to Hindus of rank, who either have small free estates, or rent lands, and in the cultivation of these such slaves are chiefly employed, although some are also employed as domestics." The whole that Dr. Buchanan considered "as belonging to this class, are such as are allowed a separate hut, and small garden for themselves and families, where they receive an allowance of grain and coarse cloth for subsistence. The men work constantly for their master, and the women, whenever their children do not require their attention, are either permitted to work on their own account, or if required to work for their master, they and the children are fed and clothed entirely at his expense. The children, so soon as they are able to tend cattle, are taken to their master's house, where they are fed and clothed until married."

The third class "belong mostly to the great landlords, and each family receives a farm free of rent, and sufficiently large for its comfortable subsistence. This the family cultivates with its own hands, or by means of those who take a share ; and when required, the men attend their lords, sometimes on grand occasions to swell out his numerous train ; but usually either as domestics, or as confidential persons, to whom he can safely entrust the superintendence of his affairs. Their families live on their farms, only perhaps one woman or two in a hundred may be required to be in attendance on her lady."

In the province of Behar* the slaves are employed in domestic or outdoor work, including field labour, according as their services are required†.

Buchanan. Martin, vol.
2, p. 98-99, 219.

Dr. Buchanan gives the following account of the slaves in Bhaugulpore: "None of them are employed as confidential servants, such as in Purneah receive a good farm for the subsistence of their family; on the contrary they are generally very poorly provided, and the greater part of the men are employed in agriculture; most of the land rented by the high castes being cultivated by their slaves or hired servants. Some of them, when there is nothing to do on the farm, attend their masters as domestics; others are employed entirely as domestics, and living in their master's house receive food and raiment; finally, others are constantly employed on the field, and these get no allowance when there is no work on the farm, but are allowed to cut fire-wood, or do any other kind of labour for a subsistence. The women when young, are usually alleged to gratify their master's desires; and when grown up, sweep the house, bring fuel and water, wash, beat and winnow grain, and in fact are women of all work. At night they go to their husbands' hut, unless when young and too attractive; in which case they are only allowed to make him occasional visits for the sake of decency. The boys, so soon as fit, are employed to tend cattle."

In Behar, Patna and Shahabad, the poorer class of masters, particularly the Rajpoots and Bamans, who have not much occasion for domestic service, employ their slaves in agriculture.

Buchanan. Martin, vol.
1, p. 483.
MSB.

In Shahabad, according to Dr. Buchanan, the Mahomedan slaves are mostly employed in agriculture. Respecting the same district he says, "In the northern parts, wealthy men usually have among their slaves a number of bearers, who in common cultivate their land, and when called on, go with their master's palankeen; but in the south the bearers are mostly free." The women of the slaves in Hindu families "occasionally attend on the ladies; but they are wretched dirty creatures, who pass most of their time in the hardest labours of the field."

Ditto, vol. 1, p. 479.

Buchanan. Martin, vol.
1, Appendix p. 13, 47, and
MSB.

The same authority gives the following distribution of the able-bodied male slaves in the above-mentioned districts.

District.	Men slaves entirely domestics.	Men slaves partly employed in agriculture and partly in domestic service.	Men slaves employed entirely in agriculture.	Total men slaves.
Bhaugulpore....	574	1,300	2,560	4,434
Behar and Patna.	5,055	9,270	18,495	32,820
Shahabad.....	720	850	3,765	5,335

* For an account of the agricultural slaves of South Behar see Head "Conditional Slavery and Bondage."

† The following extract from Hamilton's Hindustan will shew the dreadful purposes to which the services of slaves in the wild parts of South Behar have been applied. "Theft is common throughout Ramghur, but murder more prevalent among a particular class, which are the slaves possessed by persons inhabiting the mountainous and inaccessible interior, and of savage and ferocious habits. When petty disputes occur, these slaves are compelled by their masters to perpetrate any enormity, and are more especially employed for the purposes of assassination. Any hesitation or repugnance on the part of the slave is attended with immediate death, which is equally his fate should he fail in the attempt. On the other hand, if he succeed, he is sought out by the officers of Government, and executed as a murderer. The usual police have hitherto been unable to seize the cowardly instigator, and if recourse be had to a military force, he retires into the jungles. Neither do the slaves attach the slightest idea of guilt to the murders they are thus delegated to commit; on the contrary, when seized, they always confess, and appear to expect applause for having done their duty."—Vol. 1, p. 283-4.

In Tirhoot the slaves are principally of the domestic kind, but they are sometimes employed in the cultivation of the private lands of their masters.

When the establishment of slaves belonging to any one family is large, those employed in agriculture are kept distinct from the domestic slaves; and in agricultural labor the slaves are generally mixed with free labourers, and no greater quantity of labor is exacted from them than from the latter, both working the whole day with intervals of refreshment. The females of the agricultural class do light work in the fields.

Throughout the Western Provinces the slaves appear to be almost exclusively employed as domestic servants.*

According to Dr. Buchanan, the following is the distribution of the able-bodied male slaves in Goruckpore :

Buchanan. Martin, vo 1
2, p.427. Appendix p. 12.

Employed entirely as domestics,	212
Partly employed in agriculture,	<i>few</i>
Employed entirely in agriculture,	200

Those employed in agriculture are $\frac{1}{3}$ of the 250 Kurmis in the division of Farrarona bordering on Sarun, who have been already mentioned. The women attend the ladies of the family, while the men work in the fields. The slaves received as marriage presents from Behar are all domestics.

In Rohilcund the males are employed as domestic servants only whilst young, and when they grow up they are employed chiefly in agriculture, their masters being then averse to their remaining about the house; but the female slaves are always occupied in the house, and are never made to work in the fields. The cultivation is carried on by free ryots, but a zemindar who keeps one or two male slaves for domestic purposes, will employ them likewise in agrestic labour.

COERCION OF SLAVES.

Carelessness, laziness, impertinence, disobedience, insubordination, desertion, and other misconduct of a slave, is punished by reproof, abusive language, threats, temporary banishment from the presence of the master, stoppage of rations, slaps, blows, or chastisement with a shoe, twisted handkerchief, whip, thin stick, or ratan, or by confinement, as by tying up for an hour or two. The masters consider that they possess the right of correcting their slaves with moderation, as a father his child, or a master his apprentice. The quantity of correction actually inflicted depends no doubt upon the temper and disposition of the master; and although we have no reason to believe that in general these chastisements are excessive, we bear in mind that we possess no evidence on the part of the slaves on this subject. Two exceptions to this general information will be found in the evidence.

In the Behar district ill disposed masters among the inferior landholders of the Baman caste, who superintend in person the slaves they employ in the

Witness No. 26.

* " In Cawnpore domestic slavery exists; but of an agricultural slave I do not recollect a single instance. In Upper India the slaves are employed in domestic labour entirely."—Mr. T. C. Robertson's evidence before the House of Lords Committee, 1830. Questions 1687, 1733.

cultivation of their lands, are said to beat them severely, and sometimes to confine them by tying them up, though they keep them well fed, being prompted by self-interest to do so.

Ditto, No. 11.

The Pathans of Rohilcund, naturally a choleric race, enforce the services of their slaves by beating them either with a ratan or a staff; and the latter mode of punishment is sometimes carried to such an extent that the arms and legs of the slaves are broken by the violence of the blows inflicted. An absconding slave they tie with a string, or place fetters, light or heavy, on his legs in the manner practised with convicts in the public jails. Their free servants they beat to the same extent, but they do not confine them. It should be observed, however, that the witness who gives us this information, though a native of Rohilcund, has resided for the last thirty years in Calcutta.

But though sometimes refractory* the usual character of the slave is obedience,† and if a slave is incorrigibly obstinate or vicious the master will sell him or turn him away, the latter course being usually resorted to by the better kind of masters.

Appendix II, No. 46.

“The middle class of Mussulmen,” says the Joint Magistrate of Fureedpore, “frequently provide against the escape of their (female) slaves by marrying them under the form of *nikah*, and thus in the event of their running away, they can claim as wives those whom they could not, under the Mahomedan law, legally claim as slaves, though in fact they are nothing more.”

Buchanan. Martin, vol. 3, p. 125.

In Purneah, Dr. Buchanan mentions, “servants being exceedingly scarce, few masters are supposed to be honest enough to refuse hiring a runaway slave; indeed many will deny, that there is any moral turpitude in protecting a fellow creature who has escaped from that state of degradation.”

In the province of Behar if a slave runs away the principal inhabitant of the place to which he has fled will persuade him to return on his master making application and proving his title; or if the fugitive have taken service with a zemindar, the latter will surrender him on the master's paying the expences which may have been incurred for the slave's subsistence. Remonstrances and kind treatment are the means resorted to by the master to retain a slave whom he has thus recovered.

Witness No. 14.

In Rohilcund, we are told, persons residing in the country are restrained from purchasing children of their own village as slaves by the difficulty of preventing them from running to their homes.

FOOD, CLOTHING AND LODGING OF SLAVES.

The slaves are provided with food, clothing and lodging by their masters.‡

* In Rungpore “the domestic slaves of the rich are usually accused of being very full of tricks.”—Buchanan. Martin, vol. 3. p. 497.

† In some places (in Purneah) it was said by the masters, that the slaves did more work than hired servants, and were better fed; but near Dinuya, where they are by far most numerous, it is alleged, that they will do no labour without the constant fear of the rod, which appears to me the most credible account.”—Ditto vol. 3. p. 124-5

‡ In Bhagulpore “the slaves are in general industrious, seldom run away, and are seldom beaten.”—Ditto vol. 2. p. 99.

§ The Officiating Judge of Sylhet says, “whether the actual services to be performed by slaves are required or otherwise, it seems to be incumbent on the master to support them and their children.”—Appendix II, No. 49.

The following are the usual allowances of food and clothing for an adult male slave in Cuttack. For his daily food, one seer of rice, half a chittack of salt, half a chittack of oil, and one quarter of a seer of dal, or a pice to buy vegetables; two pice per week for tobacco, and half a pice per day for fire-wood, unless the slave be allowed to cut it on his master's grounds. For his annual supply of clothes, four dhotees, two ungochas, one chudder, and one blanket. Some slaves have lands given them to cultivate, the master receiving half the produce, or such other portion of it as may be specially agreed upon.

In Rajeshahy some of the agricultural slaves are fed by their masters, but others cultivate for themselves lands which their masters have allotted to them. In this case the master supplies cattle and implements of husbandry.

In Purneah, according to Dr. Buchanan, the slaves who are exclusively domestic live entirely in their master's house; whilst those who are employed partly in agriculture and partly in domestic service are allowed a separate hut and small garden for themselves and families, where they receive an allowance of grain and coarse cloth for a subsistence. The allowance usually given annually to a slave of this description is about 15 maunds, at 64 sicca weight a seer, or 985 lbs. of grain, and a piece of coarse cloth; his wife's labour and his garden must furnish every other article of expense. When the women are required to work for the master they and the children are fed and clothed entirely at his expense. The children, so soon as they are able to tend cattle, are taken to their master's house, where they are fed and clothed until married.

Buchanan, Martin, vol. 3, p. 123.

In the province of Behar those who live in the master's house receive a portion of the food dressed for the family; the quantity so allowed is not fixed, but proportioned to the appetite of the slave. Those who live in a separate house, and choose to dress their own food, have fixed rations.

In Bhaugulpore, according to Dr. Buchanan, the slaves are generally very poorly provided. Those who are employed entirely as domestics live in their master's house, and receive food and raiment. Those who are employed partly as domestics and partly in agriculture, and those who are employed entirely in agriculture (which is the case with the greatest part), receive an allowance. "The usual daily allowance is about three seers, Calcutta weight, or about six pounds of rough rice, or of the coarser grains, the great quantity of the husks of the former making it of less value than the latter. The slave from this must find clothing, salt, oil, and other seasoning, fuel and cooking utensils. His master gives him a wretched hut, where he lives almost alone, for although he is always married, his wife and children live in the master's house, and there receive food and clothing." But the allowance above described is, in the case of the purely agricultural slave, contingent on his master having employment for him. When there is no work on the farm the slaves of this class get no allowance, but are allowed to cut firewood, or do any other kind of labour for a subsistence.

Ditto, vol. 2, p. 98-99.

In the district of Behar, according to the evidence we have received, the daily allowance for an adult male slave is three seers of rice in the husk, or two seers of wheat unground, and, in addition, three quarters of a seer of suttoo, which is the meal made from inferior grain or pulse; and this being more than the slave can consume he barter the surplus for salt and other condiments. He can sometimes get a little

tobacco out of the surplus, but it is not enough to purchase paun and betel. He has no allowance of fuel, but must find it for himself. The usual allowance of clothing is two suits in the year.

Buchanan. Martin,
vol. 1, p. 125, 479.

This information, however, does not tally with the account given by Dr. Buchanan, who states that the allowance given to the slaves in the Behar and Patna districts is in general more scanty than that given in Bhaugulpore; and we gather from his remarks that the slaves in Shahabad are in this respect on the same footing as in Behar.

Ditto, vol. 2, p. 427.

In the district of Goruckpore the Kurmi slaves, who have been described as confined to the Parraona division, and four fifths of whom are employed entirely in agriculture, live in their master's houses, receiving food and clothing.

In Rohilcund the slaves are fed from the family meals, and they are provided with two or three suits of clothes in the year. They also receive occasionally a few pice, and opulent masters will give them one or two rupees per month, besides food and clothing.

Appendix II, No. 64.

Buchanan. Martin, vol.
2, p. 98, 99.

The slave is entitled to maintenance from his master in age and infirmity; and according to the evidence taken by us regarding the province of Behar and the Western Provinces, this support is never withheld. But the Governor General's Agent in South Behar says, there is no "provision for those slaves who from old age, or from any other cause, become unable to work, so that if they happen to have no families to support them they must depend on charity." Dr. Buchanan also, in his account of the slaves in Bhaugulpore, says, "When old, their allowance is in general exceedingly scanty, and commonly depends in some measure, and sometimes in a great part, upon what their children can spare. If they have no children they are sometimes turned out to beg." And as he states that the allowance given to the slaves in the districts of Behar and Patna is in general more scanty than in Bhaugulpore, and that the slaves in Shahabad are on the same footing as those in Behar, it may be presumed that the aged slave is as little cared for in those parts of the country as in the district of Bhaugulpore.

Ditto, vol. 1, p. 125,
479.

TREATMENT AND GENERAL CONDITION OF THE SLAVES.

We are led to conclude from the information before us, that the system of slavery prevailing in this part of India is of a very mild character. In general the slaves are well fed and clothed, humanely treated, and contented with their lot: instances of cruelty and ill usage are rare, and the correction which they receive at the hands of their masters is moderate. In respect of the supply of their physical wants, and particularly of the certainty of that supply, their condition is as good or better than that of the free servants and labourers of the country, for the wages of the labouring classes are here limited to a mere subsistence. In times of scarcity they have greatly the advantage of the generality of the lower orders, and in most cases the condition of children sold into slavery is better than the condition they were born to. The slave, however, must usually share the fate of his master. If the master is pinched, so is the slave, and if the master is prosperous, the slave fares well; and this community of interests is a stimulus to the labour of the slave.

The domestic slaves are generally the most favored servants of the family; they are treated with more kindness and attention than free persons who are hired,

and trusted in preference to the latter in important matters and confidential employments. In some respectable families a clever slave will be invested with the entire superintendence of his master's household, and the slaves of wealthy zemindars are sometimes employed as agents and managers of the estates and property at a distance from the residence of their owners. In the simplicity of manners prevailing in India, the servants of a household live in a great measure on a footing of equality with the rest of the family, and the reciprocal regard generally existing between a master and his slave, particularly a hereditary slave, is sometimes heightened into an attachment resembling that between parent and child; and it is stated by the Judge of Mymensingh, that the slave often succeeds by will to the property of his master. Female slaves are regarded with great affection by their owner's children whom they have brought up. Slaves who have been liberated, or left to seek their own livelihood, in consequence of the inability of their owners to maintain them, have been frequently known to support their former masters or mistresses from the earnings of their industry, or by begging for them, and the expectation of this support in time of distress is stated by one witness to be a principal inducement to purchase a slave.

Appendix II, No. 47.

No. 20.

Though less kindness is felt for the slave who does not live in his master's house, he is treated in the same way as a hired labourer, and even perhaps with greater indulgence, as the full measure of work is generally exacted from the latter; though a severe master might oppress his slave in a way which a free hired person of the same caste would not submit to.

The general feeling of the judicial functionaries in favor of freedom has, no doubt, greatly tended to the amelioration of the condition of the slaves since the introduction of the British rule. The fear of punishment restrains the master from grossly ill-treating his slave; and though great harshness will on occasions be submitted to, if the general conduct of the proprietor be merciful and indulgent, yet if such harshness becomes frequent the slave absconds, and often finds a refuge on the estate of some landholder, whose protection secures him from molestation, whilst the inconvenience and expense attending an application to the courts, and the uncertainty of the issue, must frequently deter the masters from having recourse to that measure for the recovery of the fugitive. This is specially the case with Mahomedan masters, who are conscious of their inability to establish a strictly legal claim to their slaves. With those masters, therefore, to whom the services of slaves are an object of importance, self-interest ensures kind and considerate treatment to the slaves, their owners being sensible that they cannot retain them in their service against their inclinations.

We give a few extracts from some of the reports of the public officers on this subject.

"Slavery in these provinces," says the Acting Judge of Chittagong, "exists only in name. It is a species of servitude almost reduced to a contract, which if not explicit is implied. Kindness and good treatment, sustenance and a home, are the articles on one side, faithful service on the other."

Appendix II, No. 39.

The Acting Joint Magistrate of Tipperah observes, "In fact, slavery is now looked upon by the natives themselves as extinct. They see that the days of slavery are past, and they have almost ceased to regard their slaves in the light of property.

Ditto, No. 42.

Slavery even in name would speedily disappear from among the native population were it not for the vain and fallacious notion that prevails in the upper classes of native society, that the possession of a long train of slaves increases their respectability and enhances their importance in the eyes of the humbler classes of their fellow countrymen. Slavery, as it exists at present in this part of India, assumes the very mildest form, and I have doubt whether it be not, upon its present footing, rather beneficial than otherwise in a country like this. Masters now well knowing that under a British administration the only hold they have over their slaves is by the engagement of their good will and affections—being aware that any thing approximating to ill usage or hard treatment would be resented by an appeal to the Magistrate, and followed by speedy and total emancipation,—they, for the most part, being accessible to the dictates of self-interest, if not to the voice of humanity, take ample care to provide for the wants, and even for the comforts of this class of their dependants; and I have known not a few instances of slaves, who being bred and born in the families of their masters, have felt and expressed for them the most tender and affectionate regard."

Appendix II, No. 99.

The Acting Magistrate of Allahabad. "Here Slavery exists but in name."

Ditto, No. 114.

The Magistrate of Muttra. "The general belief amongst the natives is, that our Government does not recognize slavery. It certainly does exist, but it is merely in name; the slaves are always well treated, and looked upon as part of the family."

Ditto, No. 115.

The Judge of Allyghur. "Slavery in its general meaning is not known in this district. A species of it exists in a very mild form in the houses of the wealthy under the term *Khaneh-zad*, but merely in name, for an individual of this class enjoys the same rights, and is in every respect as free as other men."

Ditto, No. 118.

The Commissioner of Bareilly. "Whatever the original Mahomedan or Hindu law may have been on this subject, I believe it to be an undeniable fact, that slaves in Western India are no longer property. I come to this conclusion from never having met with an instance in which the right to a slave was disputed amongst members of families, who for every other inheritable or saleable portion of the ancestral property were at the most bitter discord."

Ditto, No. 138.

The Joint Magistrate of the Rohtuk division of the Delhi Territory. "It may be said indeed, that slavery is unknown in this district, save by name, and only in this respect in a very limited degree. In some of the Mussulman communities there exists a class of people denominated "*Gholams*," the signification of which word would seem to denote that the class so designated is in a state of slavery. But this does not practically hold true. These people are not in a state of servitude, and no rights, to the best of my knowledge, are claimed over them, which place them on any other legal footing than that on which stand the other inhabitants of the district."

Doubtless, however, the slaves are differently treated; some are well, some are ill used. Allowance must be made, in estimating the value of the information before us, for the fact, that of the witnesses we have examined, several are slave owners, and all are of the class of slave owners, and that the public officers who have favored us with reports on the subject, are not in general, from their peculiar position, likely to be well informed of the condition of the slaves; and the latter can seldom possess the means of applying to them for the redress

of their grievances. Yet even in the information so obtained, we find exceptions to what has been above described as the general treatment and condition of this portion of the population.

One of the witnesses describing the state of the slaves in Cuttack says, "the condition of slaves is harder than that of free labourers. Their work is harder, their fare and clothing worse ; and they are sometimes beaten." No. 3.

The Magistrate of Backergunge says, "The female slaves of ordinary persons are generally well treated, for they can easily run away. But it is to be feared that the slave girls of powerful zemindars, whose houses are surrounded by their own villages, through which escape is almost impracticable, are often treated with oppression and cruelty." Appendix II, No. 37.

The severities to which the slaves of ill disposed masters of the Baman caste in the district of Behar are subjected has been already noticed.*

The Judge of Furruckabad observes, complaints (of cruelty or hard usage) are of rare occurrence ; "which is not, however, proof of non-existence of evil of the kind ; for it is well known that great cruelty is often exercised : I have personal knowledge thereof. The want of freedom probably stifles complaint." Ditto, No. 116.

The Judge of Moradabad. "I imagine that slaves are frequently worse fed and worse clothed than hired servants, from motives of parsimony in their masters ; but I am not prepared to state that they are generally maltreated, and many instances doubtless occur in which they meet with the greatest kindness and protection." Ditto, No. 123.

The severe treatment and cruelty to which the slaves in Rohilcund, (including Moradabad) are sometimes subjected from the choleric disposition of their Afghan masters, have already* been mentioned ; and the Agent to the Governor General in the Ceded and Conquered Provinces, in 1811, speaking of the importations from the hills into Rohilcund, Meerut and Saharunpore, says, "The males are for the most part employed as domestic servants, who sometimes obtain comfortable establishments in the families by whom they were bought as slaves ; this occurrence I believe to be rare, the greater number leading a laborious life for bare subsistence, and are often hardly treated." Slavery in India, 1828, p. 115.

One of the officers employed in Assam observes, "though the slavery of India is mild, compared to what it is elsewhere, I have seen myself cases of intolerable hardship." Slavery in India, 1838, p. 357.

The statements of Dr. Buchanan on this, as on every other point connected with the subject, are valuable, and we therefore give them.

In his account of Rungpore he says, "Poor parents, who are under the necessity of parting with even their male children, whom they sell with more reluctance than females, as being a greater resource for support in old age, give them for a few rupees to any decent person, that will undertake to rear them. These are in general considered as a kind of adopted children, and are called '*Palok-beta*,' or sons by nourishment. Wealthy people seldom take such children, because, if active and industrious, they usually leave their nourishers when they grow up, and in fact are" Buchanan. Martin, vol. 3, p. 496-7.

* Head "Coercion."

not slaves, although while they remain with their master they receive no wages. It is among the Mahomedans that the custom of nourishing poor children is chiefly practised."

Buchanan. Martin, vol. 3, p. 128.

Describing the domestic slaves in Purneah, he says, "So far as I can learn, they are in general tolerably well treated, and fare as well as the ordinary class of servants, whose state however in this country is not very enviable. They have, however, wherewithal to stay the cravings of appetite for food, and the comfort of marriage, without the care of providing for a family." Again "they (the slaves) frequently run away, and going to a little distance, hire themselves out as servants which shews that their former state was not enviable."

Ditto, vol. 1. p. 141.

Ditto, vol. 2, p. 427.

The condition of the slaves in respect of food, clothing and lodging, in the districts of Bhaugulpore, Behar, Patna and Shahabad, according to the same authority, has already been described; it must be added however, that in speaking of the Mahomedan slaves in the districts of Behar and Patna, he says, "Converts are occasionally made from the Pagans, especially by the purchase of slaves, who are treated with great kindness." And he describes the domestic slaves in Burckpore, received in marriage presents from the Province of Behar, also as "treated with great kindness."

SLAVE AND FREE LABOUR COMPARED.

In Cuttack slave labour is more economical than free, both for domestic and agricultural work; and the land is said to be better cultivated by the slaves than by freemen, because the former feel that they have an interest in it.

In Calcutta the domestic service of slaves is cheaper than that of free persons.

Appendix II. No. 59.

Buchanan. Martin, vol. 2, p. 703.

In those districts* of the Bengal Province respecting which we have any information on this point, slave labour, both domestic and agricultural, is considered either on a par with, or more expensive than free labour, excepting in Dinagepore, where according to the Judge's account, a slave for his daily food and two sets of clothes, costs about 18 rupees per annum, while a hired servant gets his daily food, and wages at the rate of one rupee four annas per mensem, equal to about 30 rupees per annum. But Dr. Buchanan says, the free domestic servants of this district have miserable wages and are very poorly clothed.

Slavery in India, 1838, p. 5.

In the province of Behar it is considered on the whole more economical to employ slaves than freemen. The same quantity of work is required from both, but the zeal inspired by a permanent attachment to his owner's family, causes the slave to accomplish more than the hired labourer, who gives to his employer as little labour as he can. According to the account given by the Patna Council in 1774, it was only persons living on their own free estates in the country, and who employed their slaves both in the house and on their land, to whom it could answer to keep male slaves, as the grain produced by their labour served for their support. "In the city," they observe, "few people choose these Kuhar slaves, being indifferent to their business, and equally expensive with other servants."

* Burdwan, Jessore, Backergunge, Rajshahy and Dinagepore.

Regarding the Western Provinces we are only informed, that in Rohilcund the labor of the slave is very little cheaper than that of the freeman.

Independently of considerations of economy, slaves are in general as domestics, and particularly as female domestics, much preferred to free servants. From their greater fidelity they can be more safely trusted with the custody of money and other valuables; and the comfort and privacy of the women's apartments are better secured by the ministration of female slaves than by temporary servants of the same sex, who would more frequently give rise to scandal, and be more disposed to aid and abet intrigues.

Moreover in some parts of the country there is a difficulty in procuring free domestic servants. "In the civilized parts (of Rungpore)," says Dr. Buchanan, "many are induced to keep slaves from the difficulty of procuring servants, especially of the female sex." Again; "The most striking circumstance in the domestic economy of the people of Dinagepore is the want or scarcity of female servants, even in houses of distinction. This does not proceed from the want of female delicacy in the women of rank; but from the difficulty of procuring women that will serve, as the whole almost are married." So also in his account of Purneah; "In many parts no free women servants are on any account procurable. In some they can be had for nearly the same wages that are given to men—most of them are elderly women that have lost their connexions; but some are young, and are probably concubines veiled under a decent name. In the eastern parts of the district again, many poor creatures give up their services for merely food and raiment, as is usually the case with the women servants in Dinagepore."

Buchanan. Martin, vol. 3, p. 496.

Ditto, vol. 2, p. 704.

Ditto, vol. 3, p. 120-1.

In the province of Behar free domestics are in some places procurable, particularly in towns, and in such places the females belonging to Hindu families in poor circumstances have no objection to hire themselves as servants, nor is it considered disreputable to do so. It is usually widows who thus take service, as married women cannot be spared from the management of their own households. In other parts of the province free female servants are not to be had; both males and females of the lower classes thinking it derogatory to take menial service; and to the females in particular it is disreputable. In other parts, again, free servants, either male or female, are not attainable though there is nothing disreputable in the condition of a female servant.

Dr. Buchanan in his account of Bhaugulpore, says, "Female free servants are in general not procurable, and those that can be had are commonly old women, who have lost all their kindred, and attend as domestics for food and raiment." And in his account of Behar and Patna; "Some of the women servants are young, and none are commonly procurable of any age without wages as high nearly as those given to men." In Shahabad the women servants, according to the same authority, have nearly the same allowances as the men. He adds, "I know that all the free female domestics in one of the three (police) divisions where any are kept, are employed in a Mahomedan family, and suspect that the same is the case in the other two divisions. The Hindu ladies, therefore, perform most drudgeries, except the bringing water, or other such labours as would expose them to view." He states also, "that in the two greatest Hindu families in the district there is no female domestic."

Ditto, vol. 2, p. 98

Ditto, vol. 1, 125.

Ditto, vol. 1, p. 479.

Respecting the Western Provinces, we learn only from Dr. Buchanan, that free domestic servants, both male and female, are more numerous in proportion in

Ditto, vol. 2, p. 496.

No. 14.

Goruckpore than in Shahabad; and from one of the witnesses examined by us, that in Rohilcund no difficulty is experienced in obtaining free female domestic servants.

No. 15.

The preference given to slave service is, however, by no means universal. In Cuttack, though slaves are generally preferred, one witness states, that families who have, under the British rule, risen from poverty into affluence, have not purchased slaves, because they think them saucy and faithless, and also because there is an impression among the people that such purchases are prohibited.

Appendix II. No. 50.

"It is a general remark," says the Additional Judge of Burdwan, "that slaves are more troublesome and more expensive than hired servants, and with the exception of a few slave girls for the female apartments, the Mahomedan masters would not much regret the enactment of any law which might give to their slaves the option of leaving the houses of their masters, or of remaining there as hired servants. At present, useless idle slaves are in many instances retained by their masters, merely from a feeling that they ought not to drive away from their house one born and brought up under their roof; and they know that if they were to do so, their good name would in some degree suffer in the estimation of their friends and neighbours. There is also some consequence and respectability attached in the eyes of the natives to the possession of slaves, and this also induces some individuals to keep them, while it will, at the same time, be almost always admitted, that free servants are more useful and less troublesome than the present race of slaves."

Ditto, No. 37.

The Magistrate of Backergunge. "Dealing in male slaves has nearly, if not entirely, ceased in this district. Plentiful harvests, the difficulty of retaining male slaves against their will, unless they are married to slave girls, together with the circumstance of male servants being easily procurable, and maintained at less expense than slaves, have contributed to cause the cessation of the traffic. The few male slaves in this district are nearly all kept only to ensure the stay of the females."

Ditto, No. 46.

The Joint Magistrate of Furreedpore. "I am told, that the value of slaves is small, and that they are more expensive generally than hired servants, and but for the convenience of them as regards the security of the haram, they would be in a great degree dispensed with altogether."

Ditto, No. 59.

The Judge of Dinagpore, after stating the great comparative cheapness of slave over free service, and which he supposes the chief inducement to keep slaves, adds, "in the case of those masters who have inherited slaves for two or more generations, I have heard some say, that they would not feel at a loss if they were deprived of their slaves by an act of liberation on the part of Government, in as much as from having lived long in their family, they become much less attentive and useful than hired servants, conceiving that they cannot be turned off, that their masters must support them, and so become rather a burthen on their support." This accords with Dr. Buchanan's account; he remarks, "Some rich Mahomedan farmers (of Dinagpore) said, that in the last famines (of 1770 and 1788) some children had been purchased in order rather to keep them from starving than with a view to profit. These have turned out very ill, and were so idle and careless that their labour became much more costly than that of hired servants."

Buchanan, Martin, vol.
2, p. 913-14.

No. 11.

The witness whom we examined on the state of slavery in Rohilcund says, "Slaves are not worked harder than free servants, and the labor of the former is

very little cheaper than that of the latter, whilst it has this disadvantage, that a slave cannot be turned off at pleasure."

SLAVES RENDERING OCCASIONAL SERVICE OR TEMPORARILY SEPARATED FROM THEIR MASTERS.

Between those slaves who are constantly occupied in their master's service, and those persons who having been slaves, have, by the course of events, attained to a practical independence, there are some who being located on their owner's lands, or left to procure their own maintenance, render to their masters only occasional service; and others who are in a state of temporary but complete separation from their owners.

Many of the numerous slaves of wealthy landholders are settled on the estates of their masters, and are supported either by having lands given them to cultivate at a reduced rent, or by small assignments of land rent free, paying the ordinary rent for any lands they may be allowed to hold beyond such assignments for their support. Strictly, however, they have no right to any part of the produce of the land, nor to any property as against their masters, and sometimes the latter, in a moment of displeasure, will deprive them of every thing they possess. The slaves maintained in this manner may be said to be kept for purposes of state, as they are not required to perform any service except that of attending at ceremonies; unless indeed on any particular emergency their master should summon them to his assistance.

Some of those described by Dr. Buchanan as being in Purneah mostly employed in agriculture, are probably of this class. Of these he says, "Such persons are in fact by far the easiest class of labouring people in the district, and of course never attempt to run away, and are in general very faithful to their masters, who, although at a vast expense of land in maintaining them, very seldom sell them; but they possess the power, which operates strongly in rendering these slaves careful in the performance of their master's commands, and regardless of its nature." According to one witness these slaves in Purneah receive a small pecuniary allowance and rations while rendering occasional services.

Buchanan. Martin, vol. 3, p. 125, and MSS.

No. 27.

When also the slaves of any master have multiplied* beyond his wants, or his means of providing for them, those whose services are not required are permitted to settle on lands, either of their owner, in which case a spot of ground is given them for the erection of a residence, or of others, and to take and cultivate lands as other free tenants paying rent, or to go out to service, or otherwise to follow their own occupations, and are so left to maintain themselves. In Sylhet some of the slaves in this condition are Police Burkundauzes, receiving Government pay to their own use. The masters do not by this measure relinquish their right of ownership over the slaves, and the slaves attend them at marriages, deaths, and festivals, and render them other occasional service; for which in Sylhet they receive no remuneration, but in

* Dr. Buchanan, in a passage already quoted, observed, that in the civilized parts of Rungpore the slaves did not appear to be on the increase, and that the importation did not seem to do more than keep up the number, although the master always procured a wife for his slave and according to Witness No. 20, a slave family in Bhaugulpore is never on the increase, the average issue of one woman being 3 or 4, of whom not less than one half die in infancy.

the province of Behar they receive the same rations as a freeman during the period of their attendance, and usually a present also, and sometimes they receive wages in addition to their rations, but not so high as those of a freeman. In Chittagong, if called on for extra service beyond the usual attendance at festivals, they are entitled to receive the regulated hire of a free labourer.

Further, when a master falls into distress he will direct his slaves to seek their own livelihood, reserving his right of ownership, and of recalling them to his service should his circumstances at any future time allow of his so doing. In this case it is not usual for the master to receive any of the slave's earnings, except in Cuttack when the slave is the child of the master; and on the authority of Dr. Buchanan, we may except the district of Shahabad also, where, "when a master is so poor that he cannot feed his slaves, he usually requires them to give him a share of their wages." One of the witnesses, speaking of the customs of Benares and its vicinity, gives it as his opinion, that the master could not legally appropriate the earnings of a slave so situated, if he afterwards recalled him to his service.

Many slaves also on the decay of their master's fortunes, quit them without formal permission, and work for themselves.

MANUMISSION.

Manumission is extremely rare; so rare that the slaves generally regard it as unattainable, and when well used probably do not desire it. It sometimes takes place when a master has particular cause of satisfaction with his slave; in which case it is usually accompanied with a gift of the means of earning a subsistence, either in the shape of land, or a present of money. It also occasionally happens that a master, anticipating from the evil disposition of his children that they will maltreat his slaves after his death, manumits such of them as he has a regard for. Further, when a family of respectability is reduced to distress, and can no longer maintain the slaves attached to it, they are sometimes set at liberty.

In Cuttack, on the manumission of a purchased slave, the master delivers up to him the deed of sale; if there is no such deed he executes a "*Farigh-khuttee*" or release. In the southern division of this district if a slave girl marries a freeman with her owner's consent, she becomes free. In Chittagong also, if a Mussulman master marries his Mahomedan female slave to a freeman, and permits her to go away with her husband, it amounts to emancipation.

In Rohilcund, according to the only witness we have had an opportunity of examining on the state of slavery in this part of the country, when a slave attains the age of about 40 years, though his owner continues to maintain him he relaxes in his demand of service: he also after that period permits him to seek other employment. If the slave takes advantage of this license he separates from his owner, and works as a freeman; but if he remains with his master, his services being less rigorously exacted, he has time to work for himself, and the master does not interfere with his gains in this way. Here also a master reduced to distress generally lets his slaves go free.

Sometimes a master turns away a slave for continued misconduct.

Severity, and even extreme ill usage, though punishable as a criminal offence, confers no right to emancipation; but one of the witnesses considers that the

Buchanan, Martin, vol. 1, p. 479.

No. 28.

No. 14.

No. 1.

withholding support, or inability to give it, would authorize a court to set the slave free.

But though not actually manumitted, which can only be by express words, many slaves annually obtain their freedom in the modes which we have already described when treating of the Kurmi and Kuhar slaves of Behar. Of those slaves who in consequence of their masters having no employment for them, or of their inability to maintain them, are permitted to seek their own livelihood, many probably return to their masters (as we are told is the case with the Kurmi slaves of the Patna and Behar districts), if the latter are in a condition to reclaim them before any considerable time has elapsed; but the partial separation is frequently prolonged until it terminates in the practical freedom or even absolute independence of the slave or his offspring, particularly when the decay of the master's family is the cause of the separation or the secession of the slave, in which case it seldom happens that the slave can ever be again reduced to actual slavery.

As an illustration of the effects of a public calamity on the condition of the slave population, we may here notice the evidence of one of the witnesses examined No. 15. respecting the slavery of Cuttack. In consequence of the famine which prevailed in 1790 in that district, many persons in the northern or Balasore division who possessed slaves were unable any longer to support them, and the slaves became practically free. This he states to have been the case with his own family, who before that period possessed more than 20 houses of slaves, and persons of those very slave stocks are now in the service of his family as freemen, receiving wages. He further states that there are now no slaves *de facto* in his purgunnah (Rumna), though there are many *de jure*, which he considers to be the result of the famine, and of the decay of the ancient families since the acquisition of the country by the British. He has been told also that in other parts of Cuttack masters have generally lost all practical dominion over their slaves.

TRANSFER OF SLAVES BY GIFT.

It is customary for a father on the marriage of a daughter to give, as part of the marriage present, one or more of the female slaves of the family to be her attendants; and in the province of Behar* upon occasion of funerals, it is usual to give one or more slaves, amongst other presents, to the officiating Brahmin. We have already stated on the authority of Dr. Buchanan, that almost all the domestic slaves in Goruckpore were received in marriage presents from the province of Behar.

TRANSFER OF SLAVES BY SALE.

In Cuttack such slaves as are the spurious kindred of their masters are never sold, but all others are constantly transferred by sale from one master to another, excepting in the southern division of the district, where, in consequence of their being scarce, they are seldom parted with.

In all the other provinces of the Presidency it is generally considered as disreputable to sell a slave; and in Rohilcund any master resorting to such a measure

* This is probably true of many other parts also, though our evidence on this point is confined to Behar.

would be called a "Burdch Furosh,"* or slave dealer. Besides that the relation between master and slave is considered a family tie, the rank and respectability of a family is measured by the number of its dependants, and according to the prejudices of the people few of these dependants can be dismissed without incurring disgrace. Hence the sale of this description of property is seldom resorted to unless when the owner is reduced to distress and can no longer maintain his slaves, and even in that case persons of respectability prefer either to give their slaves their liberty, or to dismiss them to seek their own livelihood, reserving their proprietary right should circumstances afterwards allow of their asserting it. Such sales therefore are not common in the above provinces, though they appear to be more so in the districts of Behar and Tirhoot than in other parts; but a master will sometimes sell a slave who gives trouble by his misconduct. An indistinct knowledge of the Regulations respecting the slave trade, and the leaning of the courts in favor of liberty, have probably rendered the sale of slaves less common than formerly.

The above account however, founded on information lately collected by us, must be received with some limitation. The Assistant to the Magistrate of Dacca Jelalpoore stated in 1816, that the custom of disposing of persons already in a state of slavery was common throughout that district, and that regular deeds of sale were executed in such cases, some of which were registered in the court. The father of one of the witnesses examined, a native of Sylhet, purchased 10 families of slaves from their masters. The Council of Patna in 1771 said, "whole families (of slaves) were formerly sold together, but we do not find that the custom, though of old standing, and still in force, is now attended to, except in the Mofussil, where sometimes the survivor of an old family retired on his *altumgah*, cultivates his lands by the hands of these slaves, who also perform the menial offices of the house." The Officiating Judge of Cawnpore mentions, that as Register and Civil Judge in South Behar he daily decided cases of purchase of whole families of predial slaves.

The statements of Dr. Buchanan confirm the account of the disgraceful light in which the sale of slaves is regarded in most parts of the districts of Behar and Patna, but he says that in Gyah and some other places the slaves are occasionally sold, and that in Shahabad they are often so disposed of; according to the same authority, in Bhaugulpore they are not often brought to market, and in Goruckpore neither the domestic nor agricultural slaves are ever sold.

There appears to be no legal restriction on the right of the master to sell his slave, but custom and the general feeling seem to have imposed restraints in some cases.

1. It is not usual, according to our information, in any part of the country, to sell slaves so as to separate husband and wife, or children of tender age from their parents,† but Dr. Buchanan remarks on the subject of slavery in Purneah, that

* See Evidence No. 14. Another Witness (No. 17.) characterizes such transfers as "sales of human flesh."

The Dewan of the Provincial Council of Burdwan, in his report to the Council, dated in July 1774, on the subject of slavery in that part of the country, stated, that the children of slaves "cannot be sold either by the parents or by the master."

† One witness (No. 20) speaking of Bhaugulpore says, "no one would purchase young children under ten or eleven years of age separately from their mother, as the trouble and expense of rearing them would not be compensated by any services they could render."

although "in most parts (of that district) man and wife, provided they belong to the same master, are not usually sold separate, nor is it the custom to separate children from their parents, until they are marriageable ; in others they are sold in whatever manner the master pleases, and there the price rises considerably higher." He likewise states it to be the case in Bhaugulpore that slaves may be sold in whatever manner the master pleases, and he observes generally, that the slaves in Patna, Behar and Shahabad are (with some specified exceptions) nearly on the same footing as in Bhaugulpore, but whether the general remark extends to this particular point or not we cannot be certain.

Burhanan. Martin,
vol. 2, p. 99, vol. 1, p.
125, 479.

2. In the districts of Sylhet, Behar, Patna and Tirhoot, it is not usual to sell a slave to a purchaser residing at a great distance, so as to place him beyond the reach of communication with people of his own class. In Tirhoot especially, according to the reports of the public officers, sales of slaves are entirely confined within the limits of the district, or rather to the immediate neighbourhood of their master's residence : and were a master to sell a slave beyond the boundaries of the zillah, the slave would in a short time quit his new owner and return to it. "It is not in my power," observes the Judge, "to give a reason for this fact, but I have been given to understand that such has invariably been the custom, and the result of every attempt to evade it." In Bhaugulpore it would not be considered hard to sell a slave to any distance, or into another district. In Shahabad the sales are practically confined to the neighbouring zillahs.

Appendix II. No. 81.

3. In the district of Cuttack the consent of the slave is considered necessary to the validity of the transfer. According to one witness, such consent was necessary by ancient local usage ; but according to another witness, a slave formerly might be sold to a purchaser living at any distance, and the master was not considered to act oppressively in so doing, and the consent of the slave has been deemed necessary only since the issue of a Proclamation in 1824, by the then Commissioner of the district, declaring the sale of slaves illegal ; the effect of that Proclamation having been, not to put an end to such sales, but to prevent their taking place without the consent of the slave. In Sylhet it is not common to sell a slave against his will. The Dacca Court of Circuit however, in a letter of the 26th April 1816 on the state of slavery in their division,* say, "The transfer of slaves, we are informed, sometimes takes place both with and against the consent of the slaves themselves, but in the latter case the mildest and most indulgent conduct can alone secure to the purchaser any favorable result from such transaction." In Rungpore the arbitrary sale of slaves is understood to be very unfrequent. In Bhaugulpore neither would the slave's consent be asked, nor any objection he might make be attended to. In the districts of Behar, Patna and Tirhoot, the usage is, after the master has fixed the price of his slave, to allow the latter to object to the purchaser, and to select any other who is willing to pay the price ; but if the slave cannot within a reasonable time find another purchaser, the transaction must proceed. In Rohilcund the slave of a Mahomedan master has no right to choose his purchaser.

No. 9.

No. 6.

Slavery in India, 1828,
p. 245.

4. In Tipperah no adult Hindoo slave can be sold to a Mahomedan against his will ; and in Bhaugulpore a Hindoo master would not sell his Hindoo slave to a Mussulman.

* Viz. the districts of Backergunge, Chittagong, Tipperah, Dacca, Jessalpore, City of Dacca, Mymensingh and Sylhet.

No. 1.

The form of instrument used to record these sales is either an absolute bill of sale or a deed of lease, the latter being resorted to for reasons already stated when describing the forms used in cases of self-sale, and sale of children and adults from freedom into slavery. One witness, speaking of the usages of Tirhoot, states, that property in slaves being by the Hindu law treated with the same respect as immoveable property, and transferred with equal formality, no person purchases a slave without full enquiry, and all particulars are recorded in the conveyance; and when a slave is purchased of a stranger it is usual to require that some known person should become security that the vender has a right to sell.

PRICES OF SLAVES.

Of course the prices of slaves vary according to circumstances; their age, their merits, the nature of the service for which they are intended, and the wants of the contracting parties. In the districts of Bhaugulpore and Behar the price is settled either by the parties themselves, or by a committee of arbitrators who determine the value after a personal examination of the slave.

In Cuttack the price of a young adult slave, male or female, varies from 5 to 30 rupees; children of 5 years old fetch about one-fifth the above. Generally the slaves of pure caste bear a higher price than those of the impure tribes, as the latter cannot be employed in domestic service; but slaves of the Gokha caste, which is an impure one, sell for more than others, the men being fishermen, their wives skilful in buying and selling, and their occupation a productive one both to the slave and the master. The Gokha is allowed to retain a large share of the produce, making over the remainder to his master. The females of this class never sell for less than 50 rupees; the males fetch a lower price, the reason whereof does not appear.

In Calcutta Hindoo and Mahomedan boys and girls, brought by dealers in ordinary times from Dacca, Mymensingh and Sylhet, to be disposed of as domestics, sell for prices varying from 20 to 30 Rs.

In Tipperah the price of a young Kayet man varies from	Rs. 20 to 40
A young Kayet woman.....	„ 40 to 100
A Kayet male child.....	„ 10 to 25
A Kayet female child.....	„ 20 to 30
A young Chundal man or woman.....	„ 10 to 20
A Chundal child, male or female.....	„ 7 to 10

The cause of the high comparative value of the female Kayet is, that she attends upon the ladies of the family. The free females who were formerly inveigled away and exported from Sylhet, fetched a higher price than males, being more in demand as domestic servants.

Slavery in India, 1826,
p. 216

Buchanan. Martin, vol.
3, p. 196-7
Ditto, p. 681

According to Dr. Buchanan, poor parents in Rungpore sell their male children for a few rupees. The same authority states, that the slaves formerly imported from Assam into Bengal, and who were mostly children, brought the following prices; viz: girls from 12 to 15 Rs.; a Koch boy 25 Rs.; a Kolita 50 Rs.

In Dinagepore the children of free parents sold at 6 years of age seldom fetch above 10 Rs., as they frequently abscond before or after they become adults.

Ditto, vol. 3, p. 123-4,

In Purneah, according to Dr. Buchanan, a grown man costs about from 15 to 20 Rs.; a lad at sixteen years of age from 12 to 20 Rs.; a girl at 8 or 10 years, when

she is usually married, from 5 to 15 Rs. ; but in those parts of the district in which there is no customary restriction on the right of sale the price rises considerably higher than in other parts where such restrictions exist. ,

In South Behar a young female Kuhar sells for from 25 to 80 Rs. ; a young male Kuhar for from 25 to 40 Rs.

In Bhargulpore the following are the usual prices of slaves when valued by arbitrators :

A female of 12 or 13 years old from.....	Rs. 25 to 40
„ 15, 18 or 20.....	„ 40 to 60
A male of 12 or 13.....	„ 15 to 22
„ 18 or 20.....	„ 26 to 40

In the Behar and Patna districts, according to one witness, the price of a Hindoo slave girl is from 30 to 100 Rs. ; that of a young male Hindoo from 25 to 40 Rupees. No. 1.

In the Behar district, according to another witness, the price of a young female may be from 50 to 125 Rs. ; that of a young male about one-third less. The price of children from 6 to 8 years old from 10 to 15 Rs., the females fetching about one-third more than the males. The reason of the higher price of the female being that the offspring would belong to her owner. No. 2.

The Magistrate of Behar has given the following table of the average prices of slaves in his district. Appendix II, No. 72.

From 1 to 7 years old about.....	Rs. 10
„ 8 to 11.....	„ 35
„ 15 to 20.....	„ 50
„ 31 to 50.....	„ 30
„ 51 to 60.....	„ 12

These, he states, are the usual prices for both males and females purchased for ordinary purposes or general work ; but a young and handsome slave girl bought as a concubine, will fetch 100 or 200 Rs.

Dr. Buchanan mentions, that in the districts of Behar and Patna the slaves usually fetched a rupee for each year of their age, until they reached twenty, when they were at their highest value ; but that in general the price had risen, and in many parts had doubled. Buchanan, Martin, vol. 1, p. 125.

In Shahabad, according to the same authority, young women fetch 20 Rs. ; men usually 15 Rs. Ditto, p. 430.

In Tirhoot, one witness states, the prices of slaves range between 40 and 100 Rs. ; and another, that the probability that the Courts will not enforce the rights of the master has caused the prices of slaves to fall considerably, and he gives the following scale of former and present average prices : No. 17.

<i>Former Prices.</i>		<i>Present Prices.</i>	
A young girl from.....	Rs. 50 to 60	from..	Rs. 25 to 40
A young male of 18 or 20 years old „	30 to 40	„ .. „	16 to 20

We find in the returns mention made of a sale in this district, in the form of a lease for 99 years, of a person, his wife and children, and children's children for 19 Rupees. Appendix II, No. 86.

In Rohilkund the price of a child is from 20 to 30 Rs. The price obtained for males and females, both children and adults, imported by the Burdch-furoshes from the hills into this part of the country used formerly to be from 10 to 20 Rs. each; but it has now risen to 20 or 30 Rs. According to Hamilton the prices used to be from 10 to 150 Rs.

Hamilton's Hindustan,
vol. 1, p. 452.

The scales of prices above given are those of ordinary times. In periods of scarcity and famine children are sold by their parents for prices varying from 4 Rs. to 12 annas, and sometimes even for a single meal.

MORTGAGE OF SLAVES.

In Cuttack it is common to borrow money on the mortgage of slaves, but the slaves when mortgaged continue in the possession of the mortgager.

We have no information whether the practice obtains generally in the province of Bengal or not, but it exists in the district of Rajshahy in two forms; in one the mortgager receives possession of the slave, and his services discharge the interest of the principal sum lent; in the other the possession continues in the mortgager, and the security of the creditor depends upon the deed only.

In the province of Behar the mortgaging of slaves appears to be regarded by the better classes as equally disreputable with the sale of this description of property.

In the district of Behar, however, this species of contract is common,* and here also it prevails in two forms, the mortgaged slaves either remaining in the possession of their owner, or being transferred to the mortgagee. In the latter case the mortgagee supports the slave, and has the benefit of his labour, which, however, does not, without special agreement, go to discharge the interest of the debt. Under both forms the children born during the mortgage belong to the mortgager. The Magistrate of the district says, "Mortgages are common, and foreclosures applied for and obtained from the courts. These contracts are usually attested by the cazies, and not unfrequently registered in the courts."

Appendix II, No. 73.

In Tirhoot the interest of a debt is sometimes paid by the services of a slave, the slave remaining in the possession of the debtor, and being maintained by him. In this case, if the slave die the mortgager must provide another slave: but if the death be occasioned by the fault of the mortgagee, the loss falls upon him.

In the Western Provinces the custom of mortgaging slaves does not obtain.

LETTING SLAVES TO HIRE.

In no part of the provinces, as far as our information extends, does it appear to be the custom to let slaves to hire, excepting in Jynteah, recently† annexed to Sylhet; the districts of Mymensingh and Rungpore, where, according to one witness, masters let their slaves to hire, particularly females, generally for short periods of from two to six months; and in Pachete in South

No. 7.

* But witness No. 23, speaking of the districts of Behar and Patna says, "the general belief of the illegality of sales has also put a stop to all mortgages."

† 21st March 1837.

Behar, where however it is resorted to only when the master is in low circumstances. The Magistrate of the district of Behar also mentions the practice of taking slaves on short leases of from 2 to 10 years.

Appendix II, No. 72.

SLAVES ADSCRIPTI GLEBÆ.

There appear to be no slaves "*adscripti glebæ*" in any part of these provinces ; but in three districts of Bengal the agricultural slaves seem to be generally sold with the land.

The Magistrate of Backergunge in 1816, speaking of Sylhet says, "Some (slaves) there are, whose families have been in a state of slavery for the last hundred years, and who, when a sale of an estate takes place, are included in the purchase."

Slavery in India, 1838, p. 247.

The Assistant to the Magistrate of Dacca Jelalpore thus writes in the same year ; "when an estate to which slaves are attached, is disposed of by private sale, the slaves are very commonly sold at the same time, though a separate deed of sale is always executed."

Ditto.

And we are told by one of the witnesses, that in the district of Rajshahy, if an estate is cultivated by slaves, no one would purchase the estate without the slaves, but on such sales separate bills of sale are executed for the land and the slaves ; and he instances the sale by public auction for arrears of revenue of a portion of an estate, in which the slave cultivators not having been sold with the land, he considers them *de jure* to be still the property of the *ex-zemindar*, but *de facto* they have become free ryots paying rent to the new one.

No. 7.

Mr. Henry Colebrooke, in his minute on the slavery of Bengal written in 1812, says, "In the lower provinces under this presidency, the employment of slaves in the labours of husbandry is nearly if not entirely unknown. In the upper provinces, beginning from Western Behar and Benares, the petty landholders, who are themselves cultivators, are aided in their husbandry by their slaves, whom they very commonly employ as herdsmen and ploughmen ; and landholders of a higher order have, in a few instances, the pretensions of masters over a part of their tenants long settled on their estates, and reputed to be descended from persons who were acknowledged slaves of their ancestors. Their claims to the services of those hereditary serfs are nearly obsolete and scarcely attended with any practical consequences. The serfs pay rent and other dues for the lands which they till and the pastures on which they graze their herds, and are not distinguished from the rest of the peasantry, unless by a questionable restriction of the right of removing at choice. But those employed in husbandry by the inferior class of landholders are strictly slaves, and their condition differs from that of household slaves only as the one is occupied in out-door work, and the other in business of the interior of the house."

Slavery in India, 1838, p. 311.

There is no evidence in the information before us of the present existence of this system of villinage in the Western Provinces ; but probably something of the kind prevailed up to the period at which they were brought under British rule.

Dr. Buchanan in his account of Goruckpore observes, "during the government of the Nawab the people on each property were held in a great measure as *adscripti glebæ*. Perhaps no law existed to this effect, but it was not usual for one

Buchanan, Martin, vol. 2, p. 537.

Journal of the Asiatic Society, 1869, p. 115-16.

landlord to take away his neighbour's tenants; and whoever did so, would have been liable to reproaches, which would generally have occasioned the displeasure of the Governor." And in a recent report on the settlement of the ceded portion of the neighbouring district of Azimgurh, by the late Collector, Mr. J. Thomason, we find the following passages :—

"The Urzal, consist of Bhurs, Chumars, and low caste persons, who are generally located on the estate at some expense of capital, and are liable at any time to be left entirely dependant on the zemindars, who must either support them during a season of scarcity or see his estate depopulated, and his future sources of profit destroyed."

"The third class, or tenants at will, consist mostly of those who are styled Urzal in the preceding paragraph. They neither have nor assert in general any rights, other than the will of the zemindar. They take what land he gives them, and pay the utmost that they can, either in money or in kind. Besides their direct contributions to his rental, they render him many personal services. If Kuhars, they carry his palankeen, merely receiving in return food to support them during the time. Other classes bring him wood, tend his cattle, or perform numerous other similar services for very inadequate remuneration. Under former Governments this power was no doubt recognized, and permitted. They were then predial slaves, who were beaten without mercy for misconduct, and were liable to be pursued, and brought back if they attempted to escape. Their state is now much improved. The power is now conventional. A Chumar can now sue his zemindar in the criminal court for an assault, and if detained against his will, can bring his action for false imprisonment. He can even recover in a civil court the wages of labour performed. Nothing vexes or annoys the zemindars in our whole system, so much as this. It has struck at the root of a power, which has long been exercised most tyrannically, and yet so strong is the force of habit and custom, that often as the power of the zemindar is still abused, it is very rarely that they are brought into court to answer for their misconduct."

"The foundation on which the right of the zemindar now avowedly rests, is that of pecuniary obligation. He expends capital in locating the cultivator in the village, he builds his house, feeds him till the harvest time, supplies him with seed grain, and implements of husbandry. On all these, an exorbitant interest is charged, and in consideration of the pecuniary obligation thus incurred, the services of the man are exacted. Hence the connexion is rather personal than resulting from the tenure of the land, and various circumstances support this view. In mortgages those rights are seldom, if ever, transferred; in private sales very rarely, unless specified; in public sales by authority for arrears of revenue, never. Hence an auction purchaser never acquires any rights over the tenants at will of a former zemindar."

MARRIAGES OF SLAVES, AND OWNERSHIP OF THEIR OFFSPRING.

The same rites are observed at the marriages of slaves, both Hindoo and Mahomedan, as of free persons of the same castes or classes. The expense* is

* The Judge of Mymensingh seems to consider this fact as the foundation among Hindoos of the right of the owners over the offspring of their slaves; "This, he says, gives them a lien, or a prospective claim, to the produce of such marriage, and constitutes the only legitimate claim (among Hindoos) of hereditary slavery,—Appendix II, No. 47.

defrayed by the masters,* who are considered to be under a moral obligation to provide for the suitable marriage of their slaves; but sometimes, when the slaves can afford it, the charge is borne by them. In Purneah the master usually gives about 4 rupees, and a quantity of grain on the marriage of his slave; in Bhaugulpore the ceremony costs from 10 to 25 Rs., according to circumstances.

The children are married before or on attaining the age of puberty. In Bengal a Hindoo slave girl of pure caste would be regarded as defiled if she remained single after that period, and it would be improper to receive water at her hands. In Purneah a girl is usually married at ten years. The wishes of the parents and relatives of the slaves are consulted on these occasions, at least in the province of Behar; and the inclination of the male slave also if he be adult.

Buchanan. Martin, vol. 3, p. 124.

1. A master prefers that his own slaves should intermarry, as in that case no difficulty arises in respect of their services, and their children will belong to him; and if he has no slave girl of an age proper to give in marriage to one of his slave boys, or vice versâ, he sometimes endeavours to procure a spouse by purchasing a slave from another owner, or a free person from himself, or a free child from his or her parents. But if a suitable match cannot be obtained in either of the above ways, it is sought for either among the slaves of another master or in a free family.

2. The customs obtaining on the intermarriages of slaves of different masters with regard to the property in and services of the female, and the ownership of their offspring, vary in different districts, and even in different parts of the same district.

In the northern and central divisions of Cuttack if such a marriage takes place with the consent of the female's master, the wife goes to live with her husband, rendering only occasional service to her master, and the respective owners take the children alternately: and if the woman ceases to bear when the number of her offspring is uneven, the last child goes to one owner, he paying half its value to the other. But if the marriage be made without the consent of the girl's master, he allows the husband to have access to her, but all the children belong to him. In the southern division of the district if the owner of a slave girl consents to her marriage with another's slave, he loses his property in her, and she becomes the slave of her husband's master.

In Backergunge, according to the Magistrate of the district, the Hindoo male slaves being few, several female slaves are married to one of them; which he distinguishes from the marriages with the Becakara or professional bridegroom hereafter described. "A Mussulman," he says, "generally marries a slave girl born in his house to some one who will live by his house. Such husbands often serve elsewhere; but the wives, perhaps from motives of jealousy, are not allowed to do so."

Appendix II. No. 37.

In Chittagong the offspring of the intermarriage of slaves of different masters belong to the owner of the mother.

In Tipperah when two masters agree to the intermarriage of their slaves, it is usual for the owner of the female to give her to the male's master, receiving a present, which is always less than her value; but if the marriage takes place without the consent of the female's master, the offspring are all his slaves.

* The expenses of the funeral ceremonies of deceased slaves, which are likewise the same as for free persons of the same class, are also borne by the masters; or occasionally by the slave relatives when they can afford it.

In Dacca Jelalpoore if the master of a female slave permits her to marry any but a slave of his own, his property in her, and of course in her future offspring, is ipso facto extinguished, and that without any consideration received in exchange, unless there be a special stipulation to the contrary. His property in her likewise ceases on such marriage even although it may take place without his permission.

Appendix II, No. 49.

In Sylhet, the judge informs us, the daughters of slaves are generally married to strangers, of whom the master usually receives a *douceur* of a few rupees, which is termed the *Mooneebanah*, or master's fee, and thereby makes over his right to another.

In Rajshahy when intermarriages of slaves of different owners take place with the consent of the owners, a stipulation is made as to the division of the children; when they occur without the consent of the female's owner, the offspring belong to him.

Buchanan. Martin, vol. 3, p. 124.

In Purneah, according to our information, the children of married slaves belonging to different owners, are the property of the master of the male slave; but the following account is given by Dr. Buchanan. "The two masters sometimes agree, and having allowed the parties to marry, the master of the boy is entitled to one half of the male children, and the master of the girl to the other half, with all the females. In other cases the master of the girl at the marriage, takes 2 Rs. from the master of the boy. The male children are as before divided equally; but the master of the boy gets 2 Rs. for every female child when she becomes marriageable. In both cases the female slave continues to live with her master, who if he requires her work, feeds and clothes her and the children, until they are marriageable, and at any rate gives them a hut; but in general the male slave passes the night with his wife, gives her part of the allowance which he receives from his master, and she works for whatever else she may require. These contracts can therefore only be entered into between neighbours."

In the province of Behar, when it becomes necessary to obtain a match from among the slaves of another master, an arrangement is generally made for the purpose with a neighbouring owner.

Appendix II, No. 64.

In South Behar the female remains in her master's house, and the husband visits her when he can find leisure; nor can he take his wife to his own house without her owner's consent. We are told indeed, that if a male slave be married to the female slave of another master, who resides 150 miles off, her master has a right to remove her and her children to his own house, separating them from the husband and father, unless he can obtain his owner's permission to accompany them. The offspring of the marriage belong to the owner of the female, excepting in Pachete, where they are the property of the father's owner.

No. 33.

In Bhaugulpore, Behar and Patna, the female likewise remains at her master's house; but the husband is entitled to have access to her, though he cannot remove her to his own house without her owner's consent. The offspring are the property of her master.* But according to one witness, in Behar and Patna a female slave

* The Patna Council in 1774, describing the custom of the province generally say, "Children born of slaves are the property of the owner of the woman, though married to a slave of a different family."—*Slavery in India*, 1828, p. 5.

married with the consent of her own master to the slave of another master, becomes the property of the latter.

In Shahabad, according to Dr. Buchanan, the slaves are generally on the same footing as in Behar and Patna. The children of masters by their female slaves, who, as has been stated, in this district are slaves, generally intermarry with others of the same spurious breed. The Acting Magistrate states generally that "The children remain with the mother ; nor does the father or the master exercise any right of property over them."

Buchanan. Martin, vol. 1, p. 497.

Appendix II, No. 78.

In Sarun the children of a marriage between slaves of different owners belong to the master of the father.

In Tirhoot, according to one witness, the woman resides with her husband, and performs service both for his master and her own, though the former has no right to her services. She is usually supported by her own master, but if she work also for her husband's master, she is supported partly by one, and partly by the other. The two masters divide the offspring between them ; and should the family not consist of an even number of children, either the child in excess of the even number performs services for both masters, or it is valued, and one master retains the child, paying half its value to the other master, and this distribution is not affected by the circumstance of the marriage of a slave having taken place without the consent of the master. The above is stated by the witness to be the custom of his own purgunnah (Suresur) in respect of the distribution of the offspring, but different customs, he observes, prevail in different places. Another witness says that the male children of such marriages follow the father, and the female the mother ; and if the marriage take place without the consent of the female's master the husband may nevertheless have access to his wife, but so as not to interfere with her service more than conjugal rights require. According to the Judge of the district, the husband and wife continue to reside with and serve their respective masters ; and the male children are the property of the father's owner, but the female are not necessarily slaves, and may on mature age marry as they please ; but they are generally disposed of by their parents by some agreement at the time of marriage, which is never disputed, and they continue slaves. The Magistrate also states that male slaves, whether born in the family of a Hindoo or a Mahomedan, become the property of the father's master, but the female slaves may be married out of the family to any one the parents choose.

No. 17.

No. 3.

Appendix II, No. 81.

Ditto, No. 83.

But whatever may be the local usage in the province of Behar respecting the ownership of the offspring of marriages between the slaves of two different masters, it is very frequently, and in particular parts in most cases, superseded by a special agreement between the masters at the time of the marriage. This agreement is sometimes made in consideration of the occasional deprivation of his slave's services to which the master of the male may be subjected by the visits of the slave to his wife, when she remains at her owner's house, and it is at some distance from his own. Sometimes it depends upon the whole expense of the marriage being defrayed by one party, or some such cause. In Bhargulpore, however, it is never stipulated by such agreement, that the owner of the male slave shall have any of the female offspring.

Buchanan, Martin, vol.
2, p. 427.

In Goruckpore, Dr. Buchanan states, the children of the Kurmi slaves belong to the master of the father ; but no master scruples to give his slave girl in marriage to another man's slave when he wants her.

In the other Western Provinces the issue of the marriage of slaves of different owners belong to the master of the mother, unless any special stipulation is made between the masters. In Rohilcund on such occasions the slave girl of a neighbour is selected so as to cause no interruption of their services to their respective owners, whose houses the slaves so married mutually frequent.

3. Though generally speaking slaves are married to persons in their own condition, in some parts of the country they intermarry with free persons.

In Cuttack the low castes to which the slave population belong exist in three conditions : viz.—First, Those who are in actual slavery ;—Secondly, Those who having been themselves slaves, or having sprung from slave ancestors, bear the stigma of slavery though in the enjoyment of liberty ;—Thirdly, The altogether free. Marriages are not contracted between persons in the first and third conditions, but those in the first and second conditions intermarry without prejudice to the latter. Marriages of this last description, however, do not take place in northern and central Cuttack except when the slave spouse can be purchased from the master. In southern Cuttack, if a master consents to the marriage of his slave girl with a freeman, she becomes free ; and if a freeman marries a slave girl without her owner's consent, the offspring belong to the father, the maxim which regulates the local usage being that “the seed is more worthy than the soil.”

In Backergunge a free Hindoo seldom marries a female slave, such a match being considered discreditable : and Mahomedan male domestic slaves rarely marry slave girls, but often quit their masters and unite themselves in marriage with the daughters of villagers.

In Chittagong if a Mussulman master marries his female slave to a freeman, and permits her to go away with her husband, it amounts to emancipation, and the children are free ; but if she remains in her master's service the children are his property. Marriages between free persons and slaves however are not frequent, for though a free person does not forfeit his or her liberty by marrying a slave, a freeman will very rarely give his daughter in marriage to a slave, and only when he is in low circumstances.

In Dacca Jelalporc also it very rarely happens that a freeman marries a slave girl : such a connexion does not affect his liberty, but it causes degradation, which can only be removed by divorcing his wife, and making atonement and presents to the priest.

In Rajeshahy a freeman will sometimes consent to marry his daughter to a slave, and thus consign her to slavery, for the purpose of obtaining the master's favor. The slavery of the bridegroom is not considered derogatory to the family of the bride, nor as debarring her from communion with them. If, as sometimes happens in this district, a husband sells his wife into slavery, and afterwards has access to

her, the offspring will belong to the purchaser, or to use the words of the witness, No. 7.
 “to the owner of the soil.”*

In Rungpore free parents do not give their daughters in marriage to slaves.

Buchanan. Martin, vol. 3, p. 496, 693.

Among the Garrows also, in N. E. Rungpore, intermarriages between free men and slaves are not tolerated.

In Dinagapore the slaves that are employed in agriculture, and probably the others also, are allowed to marry free women, but as all the children are slaves, the master must pay a high price, (5 or 6 Rs.) to the girl's parents, and the ceremony costs 3 or 4 Rs. more.

Ditto, vol. 2. p. 914.

In Purneah “in some places it is not usual for free persons to marry with slaves; but in other places it is not uncommon. When a free man marries a slave girl, he is called *Chutiya Golam* (cunno servus), and works for her master on the same terms as a slave, but he cannot be sold. His male children are in some places free; but are called Garhas, and are looked upon as of lower birth than persons of the same caste, both of whose parents were free. In other places the male children are slaves, and the female children in all cases are reduced to that state. A man sometimes gives his slave in marriage to a free girl, paying her father 2 Rs. In this case all the male children are slaves; but the females are free, only when each of them is married, either her relations or bridegroom must pay 2 Rs. to the father's master. The woman lives with her kindred, and works on their account, receiving the husband's allowance from his master.” According to one of the witnesses, in this district a free Kyburt readily gives his daughter in marriage to a Khawas, and the master of the male slave is the owner of the offspring.

Ditto, vol. 3. p. 121.

No. 27.

Among the Kurmi and Kuhar tribes of the province of Behar slavery is not considered a degradation as respects caste, and the free male Kurmi or Kuhar has less reluctance to marry a slave girl, because even if he were to marry a free woman the children would be under her dominion and not under his, according to the rules of those castes. One witness however says, that in the Behar and Patna districts a free Kurmi would not willingly marry his daughter to a slave, but the free Kuhar being always tainted with slavery has no objection to such a connexion.

No. 23.

In Pachete in South Behar if a free woman marries a slave, both she and her offspring follow the husband's condition.

In Bhaugulpore the liberty of a free person, either male or female, is not affected by marriage with a slave; and the children of such a marriage follow the condition of the mother, and are slave or free according as she is one or the other. On the occasion of such a marriage the master usually provides a hut for the new married pair near his own house, and the free husband either follows his own occupation, or, as is always the case with the free wife, works for the master in consideration of being maintained by him. The free children likewise work for the master, and are maintained by him until they grow up, when they seek their own livelihood as they please. Dr. Buchanan's statement differs slightly from the above, he says, “In general a free man marrying a slave girl is not personally degraded to slavery

Buchanan. Martin, vol. 2, p. 99.

* This figurative expression, as well as a similar one occurring above (p. 58), has reference to a maxim of Hindoo Law, according to which the female is considered as the soil, and the male as the seed.

as in Purneah; in other places he becomes a *Chutiya Golam* (cunno servus), but cannot be sold; he works for his wife's master at the usual allowance that a slave receives."

In the districts of Behar and Patna also the children of intermarriages between slave and free persons follow the condition of the mother. Dr. Buchanan, in his account of these districts, says, the Molazadah slaves "form a kind of distinct caste, which does not intermarry with the free person of this (Mahomedan) religion, although the children which the highest have by girls purchased for the haram, are considered as nearly, if not altogether equal to those by legitimate wives."

Neither in Shahabad nor Sarun are intermarriages between free persons and slaves admitted.

No. 17. In one part of Tirhoot,* according to one witness, if a slave man marries a free woman, the female offspring are free, but the male offspring are the property of the owner of the husband; and if a slave girl marries a free man, the children are divided, but the father takes only one share, and the owner of the mother receives two shares; and in neither case does the free spouse forfeit his or her liberty. According to another witness of this district, a free person of either sex is degraded to the condition of a slave on marrying a slave; unless the contract is accompanied with an express stipulation for continuance of freedom, in which case the children are slave or free according to the sex.

Buchanan, Martin, vol. 1, p. 126. In Goruckpore the few Kurmi slaves are not suffered to intermarry with free persons.

No. 23. One of the witnesses states, that in Benares and all the country to the westward of that province, if a freeman marries a slave girl, the offspring belong to her owner, whose slave the husband likewise becomes for so long as he cohabits with his wife, but he may put an end to his servitude at any time by relinquishing her. But if a free woman marries a slave she becomes permanently the slave of her husband's master.

No. 14. In Rohilkund on the marriage of a free person with a slave, the free husband or wife resides at the house of the master of the slave consort, and serves him for maintenance, but remains free. The witness whom we examined respecting the system of slavery prevailing in this part of the country, informs us, that there the slavery of the parents, in whatever manner that slavery may have originated, does not descend to the children, whether both or one only of the parents be in that condition. The children during infancy, and it may be afterwards also, remain in the house of the master where they were born, and receive their maintenance from and work for him; but on becoming adult they are at liberty to seek their own livelihood as they please.

4. The practice of Punwah Shadee will be fully described in a subsequent part of this Report.

PROSTITUTION.

The sale of free female children by their parents, and of slave girls by their owners, to bawds, for the purpose of prostitution, though considered immoral and

* Purgunnah Surcser.

disreputable, is very prevalent ; and we fear that the kidnapping of free children with the same object is but too common.

The Officiating Judge of Cuttack says, "The female children of the following castes, viz. of Mahtis or writers, Khundaits, Shukar firoshes, Gowalahs, Chasas, Rajpoots, Duroodghurs, Ahungers, Bidoors, Patarahs and Potlee Baniahs, are sold by their parents to Luleans and Mahareans, as public singers and dancers, and for purposes of prostitution." "The Luleans," he adds, "are common bawds who make no distinction of sects or caste, in contradistinction to the Mahareans or Deo-dasecs* who restrict their traffic to Hindoos, and are admitted to the temple of Juggurnath at Pooree." According to one of the witnesses, however, no addition is permitted to be made from without to the band of Deo-dasecs belonging to that temple, of whom there are fifty or sixty families. The males of these families are not married to the females, but live with them in a state of concubinage, and their number is kept up by their own progeny. There is another temple in Cuttack, that of Ruggonath, which has a similar establishment.

Appendix II, No. 7.

No. 9.

An iniquitous system prevails of inveigling women and kidnapping children from the country, sometimes from as far as Moorshedabad, for the purpose of selling them in the city of Calcutta. We are informed by Mr. Blaquiere, one of the city Magistrates, that from the year 1800 to 1831, during which period this particular branch of the Police was under his charge, he released and restored to their families, or placed with respectable house-keepers, about 6 or 700 persons of this description, the greater part of whom were girls about to be sold for the purpose of prostitution ; and he states his belief that such sales are still of frequent occurrence, a case having been brought to his notice only six months ago of two women who had been decoyed to Calcutta to be sold. The houses of bawds in the city, he says, "swarm with women who have been inveigled from their families and prostituted against their will."

Witness, No. 12.

In Backergunge in 1816 the sale to prostitutes of female children by their mothers was a frequent occurrence.

Slavery in India, 1838, p. 347.

In Dacca Jelalporc at the same period the females who were occasionally procured from their parents in low circumstances were generally purchased by public women, who brought them up to the same line, and made a profit by their prostitution.

Ditto.

In Mymensingh female children are sold to the keepers of brothels, who are to be found in every large town, and in the vicinity of most bazars and petty haunts in the district. "These unfortunate children," says the Judge, "are thus brought up from infancy to infamy, and often complain (when able to do so) of the treatment they receive from these commonly termed "Surdarnees" or mothers. They often have good cause ; but sometimes they are instigated by some paramour or favourite, who wishes to get them out of the hands of the bawd."

Appendix II, No. 47

"Rungpore being a section of Camroop (the Hindoo region of sensual love,) public prostitution is so common, that in 1809,—1200 houses were occupied by females of that profession, which has assumed the organization of a regular society, with a priesthood adapted to their manner of life. In 295 of these houses, there were found to be 460 females, between the ages of twelve and twenty-five years ; 218 advanced in life, who acted as servants and superintendents ; and the community also

Hamilton's East India Gazetteer.

* Female slaves of the god.

contained 39 old men, 35 youths, and 14 boys, all born of the sisterhood. These prostitutes, although mostly born of Mahomedan parents, affect Hindoo manners, on which account they abstain from all impure food, and before the age of puberty undergo the ceremony of marriage with a plantain tree.* In this district, in 1809, there were 78 sets of female dancers and singers, all prostitutes. Here they are called Nutti, and belong to the same kind of institution as the common prostitutes, and have the same religious guides. All the girls are purchased when children; the handsomest and smartest is generally the head of the set, which usually consists of 2 or 3 girls and 4 or 5 men, who are usually born in the caste." We learn from Dr.

Buchanan, Martin, vol. 3, p. 496.

Appendix II, No. 57.

Buchanan that in this zillah free parents do not give their daughters in marriage to slaves; and if very poor, prefer selling them to a prostitute. The Magistrate, after stating that it is very common for parents to sell their female children to prostitutes, says, the prostitutes "in some measure retain a personal controul over them, and in some cases dispose of them again to other prostitutes."

Appendix VI, No. 13.

The Magistrate of N. E. Rungpore states, that 99 out of 100 prostitutes in his district are slave girls or bondswomen, and we gather from his expressions that many females of those two classes are compelled to prostitution by their masters.

Buchanan, Martin, vol. 2, p. 746, and Printed Report of this district p. 79-80.

In Dinagapore poor parents in times of scarcity, or when unable to procure husbands for their daughters before the age of puberty, are sometimes induced to sell them to procuresses. "Every prostitute," observes Dr. Buchanan, "holds out her house as an asylum for the girls who choose to join her, adopts them as her daughters, gives them clothes and ornaments to the utmost of her ability, and expects in return to be supported in her old age; with this view they endeavour, if possible, to purchase children from their parents who are indigent, although this practice is contrary to law. It is however perhaps owing to this that few children in a state of common mendicity are to be seen, but the number sold in Dinagapore is very inconsiderable."

Buchanan, MSS.

In Purneah most of the prostitutes are said to be purchased while infants from the northern parts of Dinagapore and Rungpore.

In Bhaugulpore neither free females nor slave girls are ever sold to prostitutes.

Buchanan, Martin, vol. 1, p. 127.

In the district of Behar all the prostitutes are Mahomedans, and their number is kept up by purchase from the west of India, or from the country north of the Ganges; the parents in this district will not sell their children for this purpose.

Ditto

In the Patna district also the greater part of the prostitutes are Mahomedans; but there are many Hindus, partly Rumzanis, partly Khatranis, and partly Bengalese. All the Rumzani women are prostitutes, and the men musicians, but they adopt girls of any caste, whom they procure by purchase. The Khatrani prostitutes keep up their number by adoption.

Ditto, p. 481, 191.

In Shahabad in 1809 the prostitutes amounted only to 130 houses. They are mostly Mussulmans, and are nearly on the same footing as in Behar. In the western

* Dr. Buchanan, in his account of this district, says, "Premature marriage is considered so necessary to Hindu ideas of purity, that even the unfortunate children, who are bought for prostitution, are married with all due ceremony to a plantain tree, before the age when they would be defiled by remaining single."—Buchanan, Martin, vol. 3, p. 555.

The females of the Newar tribe in Nepaul Proper at eight years of age are carried to a temple and married, with the ceremonies usual among Hindus, to a fruit called Bel. When a girl arrives at the age of puberty, her parents, with her consent, betroth her to some man of the same caste.—Hamilton's Hindustan, vol. 2, p. 670.

parts of the district there were 4 houses of Gandharvinis. "No one, says Dr. Buchanan, disputes the purity of their birth, nor scruples to drink water from their hand, although they supply their numbers by handsome girls of any kind, that they can procure. In Benares they are numerous."

There are no dancing girls attached to the temples in Behar as there are in Cuttack.

In Goruckpore the houses of bad fame were reported to Dr. Buchanan at 95 only: they were all said to be of the Mussulman faith, though 15 houses were in fact Rumzanis. It has already been stated that most of these women are purchased from the hill tribes, and that the same is the case over most of the west of India. "Many of the mountain beauties," says Dr. Buchanan, with reference to this fact, "have a great deal of the Chinese or Tartar countenance, which seems to me to be admired by the natives more than their own regular features, a taste probably introduced by the Moguls, and spread, by the usual imitation of the great, even among their Hindu subjects." Buchanan, MSS.
Dittg.

In Rohilcund the greater part of the prostitutes, both Hindu and Mahomedan, purchase children from their parents, and from the Burdeh-furoshes, so that almost all the prostitutes in that part of the country are slaves. The great majority of the children imported into Rohilcund, Scharunpore, and Meerut, by the Burdeh-furoshes in 1811 were females, who after importation were purchased for concubines, and to supply the stews and brothels with prostitutes, and some as attendants in zenanas.* Slavery in India, 1848,
p. 115.

CONDITIONAL SLAVERY AND BONDAGE.

Besides the status of absolute slavery there prevails in these provinces a system of conditional slavery, determinable under certain circumstances; and this system is of several kinds or degrees.

1. The first when a person, or a man and his wife, in a season of calamity or distress, offer themselves, with or without their children, as slaves to the more wealthy, without compensation, and merely for maintenance.† These may be considered slaves at will, being at liberty to quit their master at pleasure, but bound to work for him so long as they continue to receive their food and raiment from him.

This species of servitude obtains in Cuttack, the district of Behar, and Rohilcund; and in the last mentioned tract of country it is very frequent. In Cuttack

* For further particulars connected with the subject of prostitution see under the head of "Origin of Slavery," Kidnapping and Importation.

† It appears from Dr. Buchanan's accounts, that in Rungpore, Dinagpore, the eastern parts of Purneah, in Bhaugulpore, Behar and Patna, the free female domestics are generally aged women who have lost their husbands and kindred, and give their services for merely food and raiment; and probably it is servants of this description to whom the Magistrate of Backergunge (Appendix II, No. 37.) alludes, when he states, that in that district many Hindoo widows who are unchaste, have quarrelled with their relations, or have no other means of livelihood, voluntarily become domestic slaves in Hindoo families.

In Purneah, Dr. Buchanan states, "these servants are sometimes called Bhatoyanis, but they are also called Gulmi or Laundi, that is, slaves, although it is admitted that they have not been purchased, cannot be sold, and that they may change their master, whenever they find one that will treat them better." He adds, "There are some such persons employed not only as domestics, but in agriculture, and some of them are males." Of these males he estimated the able-bodied at 2,250, whom he designates as "Belams called also Golams and Laundis." He reckoned that there were 28 persons of the same description in Bhaugulpore.---Buchanan, Martin, vol. 3, p. 121, and MSS.

this description of slave is regarded as having lost caste by this voluntary act of submission, and though such persons can put an end to their servitude when they please, the stigma of slavery continues to attach to them. They differ from the free hired servants of the district in respect that they live upon the leavings of their master's table, which degrades them to the rank of slaves. They can acquire no property during the continuance of the servitude, and their children, if born after the servitude commences, are slaves for ever. In the district of Behar the children are not affected by the relation between the parent and master.

Witness, No. 27.

A servitude of a similar kind prevails extensively in the district of Purneah, and originates in the voluntary submission of a free person to a superior for the sake of protection and support. This kind of slave is designated "Khawas," the various meanings of which word have already been adverted to* as mentioned by Dr. Buchanan in his account of this district. The Khawases are of the Kewut or Kyburt, and Dhanuk castes; and occasionally a Kayet submits himself to this condition. The Brahmins are the only owners of this kind of servant, the Khetries being few, and none submitting to serve a Kayet in this manner. The wealthy Brahmin zemindars have many families of Khawases. The dominion of the master over a person who has thus sought his protection is not complete, for though the relation once established is seldom broken, the Khawas may, if he pleases, seek other protection, or again become independent; but the dominion over the descendants of the original Khawas is more perfect. Of the Khawases some render constant domestic service, and these are also employed in superintending the cultivation, and in reaping, threshing and storing the crops of their master's private lands; ploughing and weeding being generally done by means of hired labour, which in this district is very cheap. They receive monthly wages of one rupee, and rations; and are entitled to support in old age and sickness. It is not usual to beat them for misconduct, but they are dismissed if they do not give satisfaction. But most of the Khawases belonging to the great zemindars are supported by small assignments of land, paying the usual rent for any lands they may be allowed to hold beyond those assigned; and these render only occasional service to their masters at ceremonies, receiving at such times a small pecuniary allowance and rations. In strictness the master has perhaps a right to the earnings of his Khawas, but it is not enforced, and some of those who are maintained by assignments of land, accumulate property, and are extensive farmers. Their condition is easier than that of free labourers. On the marriage of a Khawas the master gives a small sum, usually 4 Rs., and a quantity of grain; the offspring belong to the owner of the male, whether the wife be slave or free.

There is another description of Khawas, who is only nominally the slave of some person whose patronage and protection he has sought. In great families there is a sirdar or chief Khawas, who, when a stranger seeks the patronage of the master, is directed to admit him into the brotherhood of Khawases, and the person thus admitted to clientship derives protection and distinction from the use of his patron's name, and may become a tenant on his estate, but does not usually receive any assignment of land, and has no title to support in infirmity and old age.

* See page 3 of these Details.

It has been said, that "in this district the principal object of all native expenditure is to maintain as many dependants as possible." This will account for the existence of the particular species of servitude above described.

Hamilton's East India Gazetteer.

2. Another description of conditional slavery has already been adverted to under the head of "Marriages of Slaves," where it was stated that in Benares and the country westward of it, a freeman marrying a slave girl, becomes the slave of her owner for so long as he cohabits with his wife, but he may put an end to his servitude at any time by separating from her. Perhaps the particular kind of slavery (*Chutiya Ghulam*) to which in Purneah and some parts of Bhaugulpore a freeman subjects himself by marrying a female slave, may be terminated in the same manner.

3. Slavery for a stated period has been mentioned by several of the public functionaries as existing within their jurisdictions.

"In Midnapore," says the Acting Joint Magistrate, "there is generally a written agreement between the master and slave, the latter stipulating to serve the former a certain period, the former engaging to provide food and clothing for the latter during his service."

Appendix II, No. 14.

"In Hooghly," the Officiating Magistrate states, "there is a system (very much resembling that of apprenticeship in our own country) in which a person receives a small sum of money, usually from 40 to 50 Rs., and binds himself down, frequently in a regular written agreement, to serve as a slave for a certain number of years. A person of this description is termed an "*Ajeer*" and the practice is said to be extremely prevalent."

Ditto, No. 18.

The Magistrate of Sylhet. "In Jyntea it is common to borrow money, the borrower mortgaging his services for a short term of years."

Witness, No. 5.

The Officiating Judge of Dacca. "In the Purneah district there were two or three cases pending (regarding slaves): but the suits were brought on written agreements for limited periods, and the object of the suit was to get the money (paid on the execution of the deed) returned with interest, or that the person should be made to perform the conditions of the bond. They were not however disposed of when I left."

Appendix II, No. 44.

The Officiating Additional Judge of Tirhoot. "Individuals of the poorer classes are frequently found willing to sell themselves, either conditionally for a certain number of years, or otherwise. And in seasons of scarcity and distress, they readily avail themselves of such a mode of providing subsistence and comfort for themselves and offspring."

Ditto, No. 33.

The Judge of Juanpore. "A practice obtains of mortgaging the services of children for a certain number of years, commensurate to the probable term of life, but it is never enforced. When the children arrive at maturity they remain with their masters or not as they please. In all cases they receive wages and food, and in the event of harsh treatment immediately leave their masters and seek for service elsewhere, and I do not believe any attempt would be made to compel them to return."

Ditto, No. 32.

The Officiating Judge of Futtehpore. "There is the custom of hiring the services, or rather of receiving children by deeds of contract or mortgage for a certain number of years, about as many as they can be useful,—perhaps about 36 years."

Ditto, No. 103.

The two last descriptions, however, appear to be absolute sales under the disguise of long leases.

4. The fourth description of conditional servitude, and which is usually termed bondage, is a pledge or mortgage of service, or of person and service, for the repayment of a debt; but there is very little uniformity in this kind of servitude according to the explanation we have received of it, as existing in particular parts of the country.

Appendix II, No. 7.

The Officiating Judge of Cuttack thus describes a class of slaves in that district called "Purjahs." "Slaves peculiar to Orissa denominated "Purjahs," (signifying subjects, tenants, or renters) and who are restricted to the castes of Hujjam, Dhobee, Kewut, Gokha, Rahri, Pan, Kundra, Koomar, Mehter, Baoree, Tantee, Dome, Bagdee, and Chumar, (toddy sellers and tar leaf mat-makers.) They are to be found moreover only in some of the northern pergunnahs of Cuttack. These Purjah slaves sell themselves and their whole families to either Hindoos or Mussulmans for a pecuniary consideration, rendering themselves amenable for the service of their profession until the purchase money is repaid. The subsequent births in such slave families also become the master's property, and these slaves are sold, pledged and let out to hire. The issue of marriages between the male Purjah slave of one master and the female slave of another, does not fall to the latter (*partus sequitur ventrem*), but is divided equally between the two masters; and in the event of an uneven number, half the estimated value of the odd slave is given by the master who keeps the slave. These Purjahs, it is to be observed, do not by selling themselves forfeit their caste, as they live and take their meals separate from their masters, and retain throughout servitude their hereditary profession."

Ditto, No. 58.

The Officiating Magistrate of N. E. Rungpore writes, "In the district under my charge, I am of opinion, that in ninety cases out of the hundred those held as slaves are not so legally either by Mahomedan or Hindoo law; but their slavery has originated either by their forefathers having made themselves bondsmen by borrowing small sums of money, (which bondage ought to have expired with their lives) or the descendants of cultivators who have died in debt, either to the zemindars, or persons holding small farras under them: as experience has proved to me, that neither would scruple to compel the widows or children of their deceased bondsmen, or insolvent deceased cultivators, to give them written engagements of being slaves or bondsmen for life; and this instrument would cause the parties and their descendants to become slaves in perpetuity."

In South Behar a great portion of the agricultural labourers are slaves or bondsmen of the outcaste tribes of Bhooyian, Rajwar, Ghatwar, Turi, Bokta, Cole and Sontal; sometimes also Kandoors, Khyrwars, Dosadhs and Gowalahs, become slaves for life and bondsmen; but Kurmis and Kuhars are very rarely found in the latter condition. "Kamia" and "Sewuk" are the generic terms by which these slaves and bondsmen are designated.

First.—One class of these labourers are absolute slaves, having sold themselves, or having been sold when children by their fathers or other persons exercising parental authority. These are included in the generic term Kamia, but are called Saunkias. The Saunkia has two beegahs of land and two Mohwa trees, and has the use of his master's bullocks to cultivate the land, and seed grain supplied to him. He is allowed at all times and under all circumstances three seers of grain in the husk daily, and whilst employed in his master's work one seer of rice besides. During harvest he receives an extra allowance of one and a third sheaf of the crop every day.

He is also clothed by his master. If his wife labours in the fields she also receives three seers of grain in the husk; but if sick, or if from any cause she does not labour, she receives nothing. The average price of a Saunkia is 50 Rs. The Saunkia marries his female children as he pleases, the master never interfering with the disposal of them, though in strictness he may perhaps have a right to do so.

Secondly.—The Kamia or Sewuk who sells himself for life, and is called *Bunda Sewuk*. He receives from a person a sum of money and executes a deed called *Sewuk Putra*, binding himself to become that person's slave for life; and he cannot be released from his bond though he tender payment of the money he received. To the validity of this sale it is requisite, by the custom of the country, that the seller have attained his majority. These slaves are transferable property; the price of one varying from 10 to 40 Rs. The master feeds and clothes him, and generally defrays his expenses, always those of his marriage. The deed of sale executed by the parent in no way affects his children, nor can the parent sell his child to his own master or to any one else; but the son generally sells himself to his father's master. It must be observed, however, that one witness asserts, that there is no such practice as a man selling himself for life without his children. No. 34.

These two descriptions of permanent slavery belong properly to the former portion of these Details, but we have postponed the mention of them to this place to bring under one view the system of agricultural slavery and bondage prevailing in South Behar.

Thirdly.—The bondsman, called Bunduck-Kamia or Sewuk; or Chootta-Sewuk; or Kamia simply; or Saunkia, though this last term is applied by the witness above mentioned to the absolute slave first described. The bondsman is a person who, in consideration of a debt previously contracted, or of an advance of money, varying from 10 to 30 Rs. or more, engages by a written deed, or *Sewuknameh*, to serve the lender until he repays the principal; which being done he is entitled to freedom; but, according to the same witness, he cannot leave his master except at the end of the agricultural year, though he should have the money to redeem himself before that period. In most parts the bondsman is not transferable except by his own consent; but in Pachete the master may assign him over to another without his consent. One of the witnesses conceives that if a bondsman does not perform his duty the master is entitled to compel him by force. No. 35.

Three different statements have been made to us respecting the manner in which these bondsmen are maintained. One is, that he receives nothing but three seers of grain in the husk daily. Another, that he has a piece of land, generally about two beegahs, which he is allowed to cultivate on his own account, and receives about three seers of grain per diem as rations;—also for clothing two dhoties and one blanket annually. The third, that they are generally fed and clothed by their masters, and are entitled at the harvest to a bundle out of every twenty-one of grain, which they cut and carry to the threshing floor; the whole allowance amounting only to a bare subsistence.

The master is not considered to have any right over the property either of the slave for life (2d class), or of the bondsman; and in the event of the death of one leaving considerable property, "which," says the Governor General's Agent, "is Appendix II, No. 64.

not a rare circumstance,"* the property is inherited by his wife and children, though they may belong to another master. In neither class does any provision appear to be made for those who from old age or other cause become unable to work, so that if they happen to have no families to support them they must depend on charity.

It seldom happens that the debt or loan is ever repaid, though sometimes the bondsman procures himself to be transferred to a new master, who of course pays a consideration to the former one. Further advances of money are generally required for the marriages of the bondsman's children, and then fresh Sewuknamehs are executed in their names. The option of redemption therefore becomes a dead letter, and the bondsmen remain for generations under the same proprietor and his heirs, and are subject to partition like any other property. A circumstance which also contributes to this result is, that if a bondsman dies before the loan is repaid, it is the established custom that one of the sons of the deceased shall take his place.

These systems of agrestic slavery and bondage are very prevalent in South Behar, and seem to have been so for a series of years : their comparative cheapness, and the constant supply of labourers which they ensure, being stated as the ground, of preference over free service. The system of bondage is supposed to be more economical than that of slavery, as the master of the bondsman is not bound to defray the costs of the marriages of the bondsmen's children. All the respectable landholders cultivate their lands by means of these descriptions of labourers ; the Rajah of Rumgurrh alone having 400 or 500 of them on those lands of his estates which he keeps in his own hands. In Ramgurrh and Kurruckdeea, one third the entire population is supposed to consist of slaves of the Kuhar and Kurmi castes, and Kamia or Sewuk slaves and bondsmen, the Kamias and bondsmen being the most numerous. These slaves and bondsmen are possessed both by Hindoos and Mahomedans ; but a Mussulman agrestic slave or bondsman is rarely found in the possession of a Hindoo, though there are instances of Joolahs becoming bondsmen.

We extract the following observations on these systems of agrestic slavery and bondage from a report of one of the Principal Assistants to the Governor General's Agent in this part of the country.

Appendix II, No. 67.

"Slavery in one or other of the above (three) forms is so general in Ramghur and Kurruckdeea and Palamow, that a great majority of the agricultural labourers in those countries are slaves. Their condition in general is very miserable. They receive barely sufficient food to keep them in working condition,—in some cases are obliged to find their own clothes,—and in others are entitled to a piece of coarse cloth yearly."

* The Officiating Judge of Cawnpore mentions a case which once came before him when Magistrate of Ramghur or Behar, in which the charge preferred by the complainant was that the defendant falsely claimed him as his slave. "The fact is," says the Officiating Judge, "that the plaintiff had himself acquired a considerable fortune by traffic, and the defendant wished to avail himself of his rights as master to participate in this affluence."

It may be observed, that this officer calls the predial slaves of South Behar "Kahars," and after stating that as Registrar and Civil Judge in that part of the country he daily decided cases of purchase of whole families of predial slaves, he remarks, "With the exception of this one instance, (the one above mentioned) I never saw a cause in any court, where the persons sued for as predial slaves did not acknowledge the fact of being so, and the dispute used to be merely as to the fact of ownership. The slaves themselves were oftentimes called upon by the parties to declare to which side they belonged."—Appendix II, No. 105.

"Men generally become slaves by falling into arrears to their landlords, from bad seasons, or other similar accidents, or from borrowing money for the performance of marriage ceremonies. Being unable to pay they are compelled or persuaded to write Sewuknamahs for the amount of their debts, and thus become slaves, frequently for life, and very often the same miserable condition extending to their children. The smallness of the sums for which these bonds are occasionally executed, is almost incredible. I once had a case before me when in charge of the Hazareebaugh Division, where the amount stipulated in the bond was only one rupee; and the amount of the debt, for which these men sell themselves is generally less than twenty rupees."

"It is always an object with farmers and landholders to have as many slaves as possible; and the facilities they possess of making up their claims of debts against poor and ignorant ryots are very great. The consequence, as above stated, is that a great majority of the agricultural labourers are slaves."

"If a poor man, when in debt, objects to write a bond binding himself to slavery, the creditor prosecutes him in our courts; and as the claim has always some foundation, although often the amount of it is exaggerated, finds no difficulty in getting a decree in his favor, after which the threat of imprisonment in execution of the decree speedily compels the unfortunate debtor to agree to the terms required, and he executes the bond. In numerous cases I have seen great unfairness used in attempting to make out a claim against a man who it was notorious had no property whatsoever, and this for the sole object of getting the debtor to bind himself as a slave in satisfaction of the decree."

"The sons of slaves whose condition does not extend to their children, are always advised to marry as soon as they become of age. The master of the father advances money for the performance of the necessary ceremonies, generally less than 10 Rs., on condition that the boy binds himself by a bond similar to that by which his father is bound. This he almost invariably does, and so renders himself a slave for life, or until the money is repaid, according to the terms of the bond."

A somewhat similar system of bondage, though in a milder form, exists in other parts of the Behar province in respect of the ploughmen,* of which we give the following particulars from Dr. Buchanan.

"In the Behar part of the (Bhaugulpore) district, ploughmen (Krisan) are seldom hired by the year, but generally for the ploughing season alone. They usually in fact sell themselves for that time; for they receive from 5 to 20 Rs. as a loan, without interest, and, until they can repay that, they ought to work every ploughing season for their master, receiving daily about 3 seers, Calcutta measure, of rice in the husk, or of some coarse grain. If the master has four beasts, the ploughman works six hours; if there are six beasts, he works nine hours. He does nothing for his master but work the cattle, either in the plough or with the plank or rake; so

Buchanan. Martin, vol. 2, p. 226-7.

* In his account of Dinagepore Dr. Buchanan says, "the rage for marriage is such, that a man who has not money sufficient to defray the expense of the ceremony, is every where willing to borrow it at any interest, and thus involves himself and offspring in difficulties, from which death alone can relieve them. In some divisions, I found that even common labourers sold their services for from 18 to 24 months, in order to raise at once a sum sufficient to enable them to marry; and during that time the wife of course is left to provide for herself in the best manner she can. The master in such cases finds the servant in food and raiment."—Buchanan. Martin, vol. 2, p. 698.

that, if he is industrious, he may do little jobs in the afternoon." "The money advanced defrays the expense of marriages, funerals, and such ceremonies, and is lost when the labourer dies."

Buchanan, Martin, vol. 1, p. 307.

"The plough servants (Kamiyas) in the districts (of Behar and Patna) are exactly on the same footing with those in the part of Bhaugulpore that belonged to Behar. The chief difference that I observed was, that in many places the son was considered bound to repay the money advanced to his father, even should the effects left on the parent's decease be far less in value than his debts. This seems to me an extreme hardship, reducing the whole of this class to a condition little better than that of slavery, and ought to be declared totally illegal. I was assured in some places of the district, that within the memory of man the price necessary to be advanced to servants has doubled. Formerly no one gave more than 20 Rs. ; now they are content to give 40. This seems in a great measure owing to the increased quantity of money. In some places the ploughman receives a small spot of land, from 5 to 20 kathas ($\frac{3}{20}$ $\frac{1}{8}$ of an acre) of the country measure. This he cultivates with his master's plough ; but finds the seed, and gives his master one half of the produce, that is, pays the rent. The usual daily allowance, when ploughing, is 3 seers of grain, or in some places from 1 $\frac{1}{2}$ to 2 paysas, with $\frac{1}{2}$ seer of the unboiled porridge called Chhattu. It is seldom that in this season they work more than nine hours for their master, and when required to work the whole day, receive an additional allowance. They seldom, however, at this season earn more ; but they do little jobs about their own house, or spot of ground, when they have any."

MSS.

"In Shahabad the (free) plough servants (Kamiya or Horoya) are much on the same footing as in Behar, only that the system of making advances is confined to the vicinity of Arrah, and there varies from 5 to 20 Rs., but even there I do not learn that the son was held bound for advances made to the father, although part of the debt is often no doubt incurred on the son's marriage."

No. 31.

According to one of the witnesses, however, a system of agrestic bondage exists in the district of Behar, of even a worse description than that obtaining in South Behar. These bondsmen are of the Bhooyian and Moosur tribes, and they are bound not only to repay the principal of the loan, but also to pay interest, which makes the condition of this class of bondsmen amount in fact, from the high rate of interest, to the absolute slavery of himself and one or more of his descendants, for on the death of the father one or more of his sons become bondsmen for the payment of the increased debt, the arrangement being settled by arbitrators, and new engagements executed between the parties. Another witness, speaking of the same district states, that self-mortgage sometimes occurs, both with and without possession of the person mortgaged. In the former case the mortgagee supports the person pledged, and has the benefit of his labour ; which however, does not without special agreement, go to discharge the interest of the debt ; but this kind of contract does not affect the children of the self-mortgager.

No. 2.

MSS.

In Goruckpore, Dr. Buchanan states, the hired ploughmen are of three kinds. The first chiefly strangers who come from the Oude Territory for employment, and remain during the ploughing and sowing season. The other two kinds "are such as reside at all seasons, and have been tied down by advances (Sawok or Bhot) which they are not able to liquidate, nor can they procure stock, otherwise they would

take lands of their own. The money advanced, and which thus holds them in bondage, is often 5 Rs., and seldom exceeded 10 Rs., until of late, when some, in order to secure workmen, have been obliged to advance as far as 50 Rs. for each. They pay no interest."

"The one kind of this class, called *Pariyas* or *Pariwalas*, is most common in the eastern parts of the district. They are the same with the *Dhuriyas* of Behar, and work two days on their master's (*Gosaingya*) field, and one day on their own. This is only during the ploughing season, and they only plough and sow for their master." "In some cases the servant furnishes one half of the stock, in which case he works two days on his own fields, and one on that of his master."

"The last kind of ploughman, called *Karoya* or *Chathaiya*, and most common in the west parts of the district, work the whole year for their master, having no land of their own. They are allowed daily a quantity of grain, fully more than they can eat, and which may indeed feed one or two children besides themselves; and they usually get one-sixth, although some are contented with one-seventh, of the whole produce of land which they have cultivated, after deducting what is given to those who reap the portion that they are not able to accomplish, and the whole charges of the farm, such as keeper of the oxen, blacksmith, carpenter &c." "In some places persons of this description only plough for their master, in which case they get one-seventh of the grain, making similar deductions, and without any additional allowance."

In Allahabad also the system of bondage prevails. Persons there mortgaging their labor for a certain sum, and binding themselves to serve their creditors till the debt be liquidated, are called "*Hurwas*," and are generally employed in agricultural labour; a very considerable number of the ploughmen being persons thus bound to labour for their creditors. The debts are at first generally between 20 and 30 Rs.; they receive scanty variable wages, and cast off clothes; they are at liberty to work for themselves when their services are not required by their masters, and it is the prevailing opinion, that when a master becomes unable to support his bondsman, the latter may shift for himself. Some masters claim a right of transferring their *Hurwas* to any other person who may make good to them the sum advanced; but this is seldom if ever done, the debtors generally managing to select a creditor; and when a *Hurwa* leaves his master and takes service with another, it is understood amongst the people, that the new master should repay the sum advanced to the *Hurwa*. On the death of the original debtor his sons become answerable for the debt in equal proportion, and are bound to serve until their debt be liquidated. The daughters are not answerable. Many persons of this class have been from generation to generation in one family.

It is stated by one of the public officers, that in the western provinces not only do men sometimes pledge themselves to serve their creditors as slaves till the redemption of a debt, but even parents pledge their children, and husbands their wives, as security for money borrowed; the persons so pledged being maintained by the pawnce, and rendering him the ordinary services of a domestic.

PRACTICE OF THE COURTS AND MAGISTRATES IN CASES RESPECTING SLAVERY AND BONDAGE.

We shall now proceed to give an account of the practice of the Mofussil Courts and Magistrates in cases relating to Slavery and Bondage in the territories which were subject to the Presidency of Bengal prior to the year 1814.

With a view to ascertain the practice of the Courts and Magistrates under this Presidency in cases involving the relation of master and slave, the following Queries were addressed on the 10th October 1835 to the Courts of Sudder Dewanny and Nizamut Adawlut at Calcutta and Allahabad.

1. What are the legal rights of masters over their slaves with regard both to their persons and property which are practically recognised by the Company's Courts and Magistrates.

2. To what extent is it the practice of the Courts and Magistrates to recognise the relation of master and slave as justifying acts which otherwise would be punishable, or as constituting a ground for mitigation of the punishment; what protection are they in the habit of extending to slaves on complaints preferred by them of cruelty or hard usage by their masters; and how far do they continue to Mussulman slaves the indulgences* which in criminal matters were granted them by the Mahomedan law.

3. With reference to the apparently unlimited power allowed to the master over the person of his slave by the Hindoo law, by what law or principle would the maltreatment of a Hindoo slave by his Hindoo master be considered as an offence cognizable by the Criminal Courts.

4. Whether there are any cases in which the Courts and Magistrates afford less protection to slaves than to free persons against other wrong-doers than their masters.

5. With reference to Sec. 9 Reg. VII. 1832 of the Bengal Code, would the Courts support the claim of a Mahomedan master over a Hindoo slave, when according to Hindoo law the slavery is legal, but according to Mahomedan law illegal, and vice versa.

6. Slavery not being sanctioned by any system of law which is recognised and administered by the British Government except the Mahomedan and Hindoo laws, would the Courts admit and enforce any claim to property, possession, or service of a slave, except on behalf of a Mahomedan or Hindoo claimant, and against any other than a Mahomedan or Hindoo defendant; and if so, by what law or principle would the Courts regulate their decisions in such cases.

* By the Mahomedan law a slave is exempted from the extreme penalty of adultery, viz. lapidation, and is liable only to half the flagellation prescribed for adultery, fornication, the slanderous imputation of those offences, and for drinking intoxicating liquors. Also in offences against the person short of death retaliation is barred if the offender be a slave.

These questions were circulated by the Sudder Courts to their subordinate Judicial Officers, and the Reports furnished to the Commission in reply amounted to 136, according to the subjoined statement.*

Courts and Officers.	Lower Provinces.	North Western Provinces.	Total.
From the Courts of Sudder Dewanny and Nizamut } Adawlut }	1	1	2
From the Commissioners of Circuit	8	6	14
From the Judges and Additional Judges	29	19	48
From the Magistrates	28	26	54
From the Joint Magistrates	9	5	14
From the Governor General's Agent in South Behar	1	0	1
From the Principal Assistants and Assistant to ditto.	3	0	3
Grand Total.	79	57	136

With a few exceptions, however, these Returns supply little or no information of the nature required, a result which is attributable to the fact, that in most parts of the country cases involving the relation of master and slave are seldom or never made the subject of judicial cognizance. This will appear from the following specification.

Number of Officers who	Commissioners of Circuit.	Judges and Additional Judges.	Magistrates.	Joint Magistrates.	Total.
State that to the best of their recollection no such cases have ever been before them }	2	8	5	4	19
Remember to have had only one or two such before them in the course of their experience }	2	1	1	0	4
Remember only to have tried a few cases in zillahs Mymensing, Ramghur, Behar, and at Delhi }	0	4	0	0	4
Have had no such cases before them whilst holding their present appointments }	0	4	2	2	8
Have had no such cases before them in the North Western Provinces }	0	1	1	0	2
Who, in consequence of having little or no experience of such cases, can give no information on the subject }	1	1	0	1	3
Grand Total.	5	19	9	7	40

* Under the titles of Commissioners, Judges &c. are included Officers officiating as such. The Civil Judges are likewise Session Judges within their respective local jurisdictions.

Civil and Criminal Courts in the records of which, it is stated, no cases of the kind are to be found.

<i>Courts of</i>	<i>Lower Provinces.</i>	<i>North Western Provinces.</i>
Sudder Dewanny Adawlut. Commissioners of Circuit. Judges.	Dacca Hooghly Burdwan Beerbhoom Nuddca Jessore Dacca Jelalpore Rungpore Dinagepore	S. D. A. (established in 1832.) Bundelcund Agra Furruckabad Moradabad Meerut
Magistrates.	Balasore Burdwan Beerbhoom 24-Purgunnahs Rajeshahy Purneah Sarun	Hummeerpore Futtehpore Mynpooric Agra Meerut
Joint Magistrates.	Pubna Bograh Maldah	Kasheepore
Assistant to Governor General's Agent, South Behar.	Manbhoom	

Courts in the records of which one or two cases only have been found.

Judges.	Backergunge	Ghazeepore Goruckpore
Magistrates.		Bijnore (N. D. Moradabad.) *Sahuswan (late-ly established) Bareilly
	* A case of Prostitution	
Joint Magistrates.	Bancoorah	

The following are the only Courts before which we can gather from the Returns that cases of Slavery are brought.

LOWER PROVINCES.

COURTS OF THE JUDGES.

* 19 suits instituted from 1805 to 1807 }	*Cuttack
1 ditto in 1828 }	Moorshedabad
	Chittagong
	Tipperah
† 9 suits instituted from 1827 to 1834, in }	† Dacca Jelalpore
all the parties were Hindoos.	

LOWER PROVINCES.

COURTS OF JUDGES.

* From January 1828 to 30th June 1836,	}	* Mymensing
Original suits 227		Sylhet
Appeals..... 168		N. E. Rungpore or Gowalpara (Registrar's Court)

Purneah
Courts of South Behar
Bhaugulpore

† 71 suits from 1825 to 1835 inclusive

† Behar
Sarun

COURTS OF THE MAGISTRATES.

‡ Cases respecting young females purchased by prostitutes.

Cuttack
‡ Jessore
Dacca
Mymensing

§ 10 Cases from 1824 to 1836, both inclusive.

§ Sylhet

|| 72 cases from 1825 to 1835, inclusive.

‡ Rungpore
N. E. Rungpore or Gowalpara

¶ 6 cases from Nov. 1828 to June 1835.

|| Behar
¶ Patna
Shahabad

NORTH WESTERN PROVINCES.

Benares
Banda (S. D. Bundelcund)
Cawnpore
Furruckabad
Boolundshehur
‡ Moradabad

It does not appear from the Returns that the records of the Moonsiffs Courts of any district have been searched for the purpose of ascertaining whether suits respecting slavery are instituted before those officers. In the Evidence we find mention made of cases brought before the Magistrates in the Cuttack and Tipperah districts, and we have obtained the following further information.

The annual statements of Civil and Criminal business disposed of by the Courts of the Lower Provinces, the former during the years 1837 and 1838, and the latter during the years 1834, 5, 6, 7 and 8, exhibit only the following suits and cases connected with slavery; not including the offence of child stealing for the purpose of selling into slavery, or cases under Regulations X. 1811 and III. 1832, for which see Kidnapping and Importation.

CIVIL SUITS.

Sylhet.

1837 18 For slaves.

1838 25 do.

2 For price of slaves.

2 To recover amount of
bondage.

Behar	1837	7	To obtain possession of slaves.
	1838	4	do.
South Behar.....	1837	8	do.
	1838	7	do.

CRIMINAL CASES.

Balasore (N. D. Cuttack).....	1836	1	Enticing away a girl belonging to a prostitute.
		1	Selling children without their mother's knowledge.
Beerhboom	1836	1	Eloping with a slave girl belonging to the prosecutor.
24-Purgunnahs.....	1834	3	Purchasing a girl for prostitution.
Baraset (Joint Magistrate)	1835	1	do. do.
Chittagong ..	1838	4	Enticing away slave girls.
Noakhollce (Joint Magistrate)	1838	25	Runaway slaves.
Tipperah	1837	34	Slaves absconding.
	1838	8	Complaints for slaves.
Mymensing	1836		Abduction of slaves, number of cases not specified.
		1	Selling as slaves.
	1837	3	Kidnapping and enticing away slave girls.
	1838	2	do. do.
Sylhet.....	1836	1	Decoying away slaves and selling them elsewhere.
Rungpore	1835	1	Selling people.
	1836	1	do.
		2	Selling female children.
	1838	2	Selling male and female children.
N. E. Rungpore or Gawalpara.....	1836	1	Selling slaves.
Monghyr (Joint Magistrate)	1838	1	Abduction of a boy for purpose of sale.
Behar	1836	1	Tyranny and forcing to execute a deed of sale of a girl.

There are also numerous cases entered in the statements of criminal business under the heads of ;

Illegal* confinement—False imprisonment.

Keeping forcible possession of females—Forcibly detaining men.

Assault—Abuse of Power—Oppression—Tyranny.

* 65 cases of Illegal Detainer appear in the Tipperah Statement for 1838.

Absconding, deserting, or escaping from service or employment—Running away—Escaping—Escape from employment with money—Quitting service without good and sufficient cause.

Some cases of complaint of masters against their slaves and others, and of slaves against their masters and others, may be included in these, but in the absence of more detailed information this cannot be ascertained.

We shall now give in a condensed form the substance of the answers of the various Mofussil Courts and Officers to the questions proposed to them; and in so doing we shall endeavour to distinguish between those replies which are founded on actual experience, and those embodying opinions only, which the officers entertaining them have not had occasion to apply in practice. With a view to perspicuity we shall first dispose of those which relate to the civil branch of judicature, and then proceed to those connected with the criminal branch.

SUBSTANCE OF THE ANSWERS TO QUERY FIRST.

<i>Civil Courts which</i>	<i>Lower Provinces.</i>	<i>North Western Provinces.</i>
Recognise the right of the master over the person of the slave ;	ylhet. South Behar. Behar. Tirhoot.	
And a party enticing or sheltering a runaway slave can be sued for damages for loss of service.	Behar.	
Admit the claims of Hindoo masters to the personal services of their slaves ; but the claims of Mahomedan masters to such services have been admitted by some judges of this Court, and rejected by others.	Chittagong.	
Recognise the master's right to transfer his slave by gift, sale, or mortgage ;	Mymensing. Lohurdugga (in South Behar.) Behar. Shahabad.	
To sell even so as to separate husband and wife, parent and child, at the caprice and will of the master.	Bhaugulpore.	
Recognise the right of the master over property acquired by the slave during servitude.	Behar.	
Do not recognise any legal rights of masters either over the persons or property of slaves.		Allahabad. Meerut.
Do not recognise the right of a master over the property of his slave.	Governor General's Agent South Behar. Principal Assistant Lohurdugga.	

<i>Civil Courts which &c.</i>	<i>Lower Provinces.</i>	<i>North Western Provinces.</i>
By the practice of our Courts the right of the master over the slave, as far as his services are concerned, is fully recognised ; as also the property or title to sell, lend ; or mortgage his services—and property acquired by the slave becomes that of the master.		Commissioner of the Northern Division of the Doab.
<i>Officers who</i>	<i>Lower Provinces</i>	<i>North Western Provinces</i>
Would recognise the right of a master over the person of his slave ;	Judge of Backergunge.	
To the same extent as a master possesses over his free servant.		Judge of Bareilly.
Would admit the right of a Mahomedan master to exact service from his slave according to his ability ; to sell his slave for gross misbehaviour, and in emergency ; and would adjudge such master bound to maintain and protect his slave.	Judge of Backergunge.	
Would recognise the master's right to property acquired by his slave ;	Judge of Backergunge.	Judge of Bareilly.
If both master and slave were Hindoos, or both Mussulmans ; otherwise the slave would perhaps be allowed to acquire property, under Sec. 9. Reg. VII. 1832.	Additional Judge of Burdwan.	
Suppose the civil courts would recognise such right ;	Officiating Magistrate of Cuttack Officiating Magistrate of Gwalpara.	
As well as the power of the master to sell the person of his slaves.	Ditto.	
Has in a civil action given a slave his freedom by dismissing the claim of the master, when acts of cruelty and hard usage were established against the latter.	Judge of Patna.	
To decree emancipation on proof of gross ill treatment would be considered by the natives : an infringement of their laws guaranteed by Government.	Acting Judge of Sylhet.	
Considers that Clause I Section 16, Regulation III. 1803, would bar a claim for damages		Magistrate of Agra.

for personal injury on the part of a slave against a Hindoo or Mussulman master, as the slave is presumed to possess no civil rights.

The following statement exhibits the principles by which some of the civil Courts have been guided, and by which the several officers who have expressed their opinions on the subject, have regulated or would regulate their decisions, in cases involving the civil rights adverted to in the 1st Query, when brought before them.

In the Civil Court of Tipperah it has been the practice, when both parties are Hindoos or both parties Mahomedans, to decide according to the Hindoo and Mahomedan laws, respectively.	Judge of Tipperah.	
The Civil Courts are guided as above.	Officiating Judge of Behar.	Judge of Goruckpore. Ditto.
The Judge of Goruckpore has always so regulated his decisions.		
Officers who would regulate their decisions in the same way ;	Judge of Midnapore. Acting Magistrate of Nuddea. Judge of Dinagepore. Judge of Tirhoot.	
Admitting of no slavery not strictly legal according to those laws ;		Officiating Judge of Agra.
And giving the alleged slave the benefit of the slightest doubt respecting that legality.		Magistrate of Benares.
Officers who think that there are very few slaves strictly legal,	Officiating Judge of the 24-Pargunnahs. Acting Magistrate of Nuddea.	Magistrate of Agra.
Either under the Hindoo or Mahomedan law.	Officiating Magistrate of Gawalpara.	Magistrate of Mynpoorie.
Who think there are very few slaves legal according to the Mahomedan law ;	Commissioner of Chittagong. Judge of Tipperah. Joint Magistrate of Furreedpore Officiating Judge of Sylhet. Ditto of Behar.	Commissioner of Muttra.
Such has been the invariable result of investigations before the Magistrate of Cawnpore.		Magistrate of Cawnpore.
The Mahomedans themselves are aware that their alleged rights as masters cannot stand the test of their law.	Acting Judge of Chittagong. Joint Magistrate of Furreedpore.	

Presumes that if the purchase of a Hindoo slave, or descent from a slave so purchased, be proved, the slavery would be held to be established.

In Cuttack* it is well known, that sales of children by their parents in scarcity are not binding on the persons so sold. The purchasers have no remedy.

In the Civil Court of Mymensing the Hindoo law is administered for Hindoo slaves, and the Mahomedan law for Mahomedan slaves, but custom and precedent are admitted.

The acting Judge of Dacca would consider himself bound by Hindoo and Mahomedan law, unless they did not define the power of the master and rights of the slave ; in which case he would act as justice and reason seemed to require, not deeming the master's power unlimited because undefined.

The Courts being bound to administer to the natives their own laws, the Officiating Judge of Shahabad would recognise the right of a master over his slave and his property, agreeably to Hindoo and Mahomedan law, as the case might be, provided no right was claimed inconsistent with proper, i. e. kind treatment of the slave.

The Judge of Purneah would be guided by the spirit of the Regulations and humanity, and if necessary require a legal opinion from the Hindoo or Mahomedan Law Officer. He considers that all the rights of a Hindoo or Mahomedan master in reference to his slaves, sanctioned by the respective religious institutions of such persons, would be recognised by the Courts, if they did not militate against the humane spirit of the British laws. Where they did, a British Judge or Magistrate would suspend their operation, as expressly done by Regulation VIII. 1799. A British functionary would always favor the alleged slave as far as consistent with the spirit of the Regulations. A large discretion is felt, no doubt, allowable on the subject, and a very loose administration of the law to be excusable.

Officiating Judge
of Sylhet.

Judge of Behar,
late Judge of
Cuttack.

Judge of My-
mensing.

Acting Judge of
Dacca.

Officiating Judge
of Shahabad.

Judge of Purneah.

* With this statement may be here contrasted that of the Magistrate of Mymensing, who regards the Circular Order of the Nizamut Adawlut, dated 5th October 1814, "as virtually sanctioning the sale of infants." "During two seasons of scarcity," he adds, "while I was employed in Cuttack, I invariably upheld such transactions,"

All the cases in the Civil Court at Bhaugulpore for the last ten years have been decided as mere matter of sale (in the form of leases for 70 or 90 years), and no questions of law taken. The only proof required is the sale having been made, and the person making it being the owner of the slave.

The Judge of Backergunge understands that the Courts are guided by custom and usage.

The Judge of Jessore would be guided by custom, if it was just and reasonable.

The Commissioner of Baulcah conceives, that whatever may be the Hindoo or Mussulman law, cases before the Civil Courts would be treated as common contracts.

The Commissioner of Bhaugulpore thinks the Courts have been guided more by the English law relating to master and servant, than by Hindoo or Mahomedan law, respecting the rights in question.

The principles by which cases respecting slavery are adjudicated in the Civil and Criminal Courts of zillah Behar have been different at different times.

The additional Judge of Ghazeepore, who was for five years Judge and Magistrate of the Behar district, describing his practice there, states, that subject to the Regulations and humanity, he adhered to the Mahomedan and Hindoo law; and in civil cases followed those laws strictly.

The Acting Judge also says, that the Civil Courts are guided by the Hindoo or Mahomedan laws, according to the creed of the parties.

The Magistrate says, "In the district of Behar the Courts would appear by their decisions to have recognised generally the rights of masters over their slaves, to the extent of enforcing any engagements voluntarily entered into by the parties, according to the custom of these parts, and provided that they be not repugnant to the feelings of a British judge."

The Judge of Patna, who was likewise nearly five years in zillah Behar, after commenting on the uncertainty of the practice of the Courts of that district, in regard to rights claimed or exercised

Judge of Bhaugulpore.

Judge of Backergunge.

Judge of Jessore.

Commissioner of Baulcah.

Commissioner of Bhaugulpore.

Additional Judge of Ghazeepore.

Acting Judge of Behar.

Magistrate of Behar.

Judge of Patna.

over slaves, proceeds; "In the usages which had thus become common and binding, certain principles of natural equity were more or less discernible. For instance, the right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or failing her with the maternal grandmother." "It seems to be generally admitted, that to make the sale of a person born of free parents valid, such sale should have been made under circumstances of distress, such as dearth and the like, and that the party sold be an infant, or of immature age."

In leases of 90 years, (substituted for deeds of sale) this officer used to allow redemption, on the slave attaining majority, on payment of the principal advanced, and interest, where there was no express condition in bar of such redemption.

In assigning the reasons for having in a civil action given a slave his freedom, when acts of cruelty and hard usage were established against the master, he says, "believing that I was not acting contrary to the Mahomedan law, and strictly in accordance with the principles of justice and equity, which by the Regulations, in cases not specifically provided for, were to form my rule of conduct. The principle upon which slavery of a person not infidels, or taken in battle, is justified by Mahomedan law and practice, is simply to preserve life; if therefore the master will not feed or provide for his slave, or otherwise by carelessness or neglect endanger his life, the avoidance of the obligation on the side of the master will form a legal ground for emancipating the slave. Cases of this description I have never met with."

"It will appear then," he concludes, "that Civil and Criminal Courts have hitherto afforded remedy to slaves for injuries, whether affecting person or property, not according to the strict letter of Hindoo or Mahomedan law, but according to the laws of custom and equity,—for this simple reason, that parties so complaining, whether master or slave, have never pleaded to have the provisions of either law enforced."

"In this part of Upper India," says the Magistrate of Agra, "Hindoo or Mahomedan slavery can scarcely be said to exist. In the district of

Magistrate of
Agra.

agra, there is not, I believe, one single individual in the state of a lawful slave. By lawful slave, I meant of course, an infidel who has fought against the faith, or the descendant of a person of this class. Of course during famines, and even under the pressure of ordinary poverty, parties are in the habit of selling (as the phrase of the common people runs) their children to those who can provide for them. But the dictum of the sale of free children being invalid in a Mahomedan country, is regarded by the ablest Mahomedan lawyers as sound in law, as it is clear that it is so by jurisprudence; and this being admitted, the disposal of any infant to any party, Hindoo, Mahomedan, Armenian or European, subsequent to the subjection of any province to the sway of the Delhi Empire, is clearly illegal. After this period, the attempt to infringe this law must of necessity be a criminal offence, and the successful infringement of it can convey no rights whatever over any particular individual or his offspring in after times.* Doubtless, however, there exist in Behar† on the North Eastern Frontier, in the Deccan, and in other parts of India, parties, who were made lawful slaves under Hindoo monarchies, never subjected to Mahomedan rule, or who became such previous to the spread of the Mogul Empire beyond the North of India. The nature, therefore, of the status of those unfortunate beings will of course be defined with more difficulty. It is obviously, however, useless for local officers to enter into detailed discussions as to laws which were never enforced, rights which have never been defined, and involving principles of reasoning of a fixed character, which were never thought of by the semi-savage despots who have ruled in India from the earliest periods to which her annals reach. The number of lawful slaves, under the more restricted rule of the Mahomedan law, must, in every part of India once subject to the Delhi Emperors, be very small indeed."

* "Abul Fuzl states of the Hindoos.—"They have no slaves among them;" and this too when the Empire embraced fifteen Soobahs, extending from Mooltan to the Bay of Bengal, and from the Himalaya to Mandow. The descendants of this class of people, in the provinces now under the Bengal Government, must therefore be very few."

† "The parties of whom Mr. Fleming makes mention in his evidence before the House of Lords clearly exist in a mere state of contract service."

SUBSTANCE OF THE ANSWERS TO QUERY FIFTH.

<i>Officers who</i>	<i>Lower Provinces.</i>	<i>North Western Provinces.</i>
Would not admit the claim of the plaintiff if the slavery was not legal according to his law; †	Judge of Dinagpore. Judge of Purneah. Principal Assistant at Lohurdugga (in South Behar.) Officiating Judge of Shahabad.	Additional Judge of Ghazee-pore. Magistrate of Benares. Officiating Commissioner at Allahabad. Acting Magistrate of Banda.
Such is the practice in the Moorshedabad Courts.	Judge of Moorshedabad.	
Are of opinion that the claim of a Mahomedan could not be supported against his own law.	Acting Magistrate of Becribhoom. Acting Magistrate of Purneah.	Acting Judge of Ghazee-pore. Magistrate of Mynpoorie.
Would decide such cases according to the law of the plaintiff.	Acting Additional Judge of Nuddea. Acting Judge of Behar.	Commissioner of the N. D. of the Doab.
Would decide such cases according to the law of the defendant.	Judge of Nuddea. Judge of Patna.	
Consider that a Hindoo master could not claim a Mahomedan slave not a legal slave by Mahomedan law.	Joint Magistrate of Fureedpore.	
Would decide by the law of the plaintiff or defendant, according as one or the other was most favorable to liberty.	Acting Judge of Dacca.	* Offg. Judge of Etawah. * Offg. Commissioner of Muttra.
Would hold the slavery established only when the laws of both parties coincided as to its legality.		Officiating Judge of Cawnpore.

NOTE.—The asterisk in this and the following statements distinguishes the officers who have given a less decided opinion than others on the particular point.

† The two Courts of Sudder Dewanny Adawlut concur in this view.

Would decide against the claim of the plaintiff in these cases.	Additional Judge of Burdwan.	Officiating Judge of Saharunpore. Offg. Magistrate of Paniput (Delhi Territory.) Judge of Mirzapore.
Would give the slave the benefit of any doubt in claims of this nature to his person or property, on the principle of British justice, equity and good conscience.		
By Hindoo law Hindoos cannot be slaves to inferiors, and a Mahomedan being by them considered such, by that law a Hindoo could not be a slave to a Mahomedan.	Judge of Nuddea Offg. Magistrate of Nuddea.	
Such being the case, although by the Mahomedan law a Hindoo can serve a Mahomedan, yet a Mahomedan slave being of little use to a Hindoo master, considers that it would be the best course not to support the claim of a Mahomedan to a Hindoo, or vice versa.	Ditto.	
Would admit the claim of a Hindoo master to a Mahomedan slave, such claim being <i>prima facie</i> legal, the onus probandi being on the claimant.		Offg. Judge of Ghazee-pore.
Would support the claim of the Mahomedan master, in the two cases supposed, if it was just.	Judge of Midnapore.	
Thinks that a Hindoo is not likely to claim a Mahomedan slave, and that such a claim would not have been admitted under a Mahomedan Government.		Magistrate of Mynpoorie.
Slavery being customary in this country does not see how the religion of the plaintiff could affect his claim.	Magistrate of Sylhet.	
In either of the two cases would support the claim if the contract was made with an adult, and the claim was for the person sold; in special cases would support the claim when the slave claimed had been sold by the parents in infancy, i.e. in the extreme cases of famine and scarcity.	Judge of Mymensing.	
The same right has been allowed to Mahomedans over their Hindoo slaves by the Sheergotty Court (in South Behar) that was allowed to a Hindoo master over his Hindoo slave, the custom of the country having been the guide. Has not heard of Hindoos having Mahomedan slaves in those parts.	Governor General's Agent in South Behar.	
In the Civil Court of Bhaugulpore no notice appears to have been taken with regard to the	Judge of Bhaugulpore.	

party being either Mahomedan or Hindoo in any of the cases decided by that Court.

The Courts in zillah Behar, in enforcing written contracts or voluntary engagements, make no distinction in regard to the religion of the parties. Magistrate of Behar.

Consider that the claim of a Hindoo master over a Mahomedan slave would be cognizable under the custom of the country ; Judge of Tirhoot Actg. Additional Judge of do.

And vice versâ.

Ditto.

A Hindoo or Mahomedan slave is regulated by the usages of his own caste, and not by the law of his master. Actg. Magistrate of Shahabad.

REASONS ASSIGNED FOR SOME OF THE FOREGOING OPINIONS.

For deciding against the plaintiff when the slavery is not legal by his law.

Would restrict the system to its narrowest legal limits, and would not support a claim to property, which the law the claimant would desire to have administered to him in the decision of all other questions of a civil nature, pronounces to be illegal. Offg. Judge of Shahabad.

Because such a decision would be most favorable to the slave, and most consonant to reason.

Offg. Commr. of Allahabad.
Actg. Magistrate of Banda.

Because the Mahomedan law ordains, that no Mahomedan shall exercise power over any person as a slave except slaves legal by their law, and the onus probandi lies on the plaintiff. The same principle would reasonably apply to a Hindoo claimant.

For holding a claim to slaves conclusive only when the laws of both parties coincided as to the legality of the slavery.

The plaintiff could not claim, and the defendant could not be enslaved against his own law; 1st, because persons putting themselves in such positions should themselves be fully aware of the liabilities they incur, and of the insecurity of such transactions from the natural difficulties of the case; 2nd, because such a course would reduce an evil, not likely to be otherwise removed, to minimum.

Officiating Judge of Cawnpore.

For deciding against the claim in both the supposed cases.

Because, with reference to Section 9, Regulation VII. 1832, to admit such claims would be to deprive a man of what is better than any property dearer than any other right, viz. freedom.

Magistrate of Paniput.

For supporting the claim of the Mahomedan master in the two cases supposed, if it was just.

Because according to Section 9, Regulation VII, 1832, the Mahomedan and Hindoo laws are not meant to operate to deprive of property persons entitled to it.

For supporting the claim if the contract was made with an adult, and the claim was for the person sold : or when the slave claimed had been sold by the parents in infancy during famine and scarcity.

On the "lex loci" and usage ; and also because both parties have heretofore been allowed to sell themselves into slavery, and both have had the privilege to purchase slaves. The "lex loci" has its influence and weight even where the Mahomedan law is in force, and it is part and parcel of the Hindu law ; therefore a bonâ fide contract of an adult could not *equitably* be set aside, because there is *no precedent* in Menu for the purchase of a Mahomedan by a Hindoo.

Judge of Midnapore.

Judge of Mymensing.

SUBSTANCE OF THE ANSWERS TO QUERY SIXTH.

Would admit no claims except where both parties were Hindoos or Mahomedans.

Offg. Magistrate of Beerbhoom.

Offg. Judge of Ghazee-pore.

Judge of Nuddea.

*Judge of Rajeshahy.

Judge of Dinagepore.

Think that no person but a Hindoo or Mahomedan could maintain a claim to a slave ;†

Judge of Midnapore.

Additional Judge of Ghazee-pore.

Additional Judge of Burdwan.

*Magistrate of Benares.

Judge of Beerbhoom.

Offg. Commissioner of Allahabad

Judge of Moorshedabad.

Magistrate of Mynpoorie.

Judge of Mymensing.

*Offg. Comr. of Muttra.

Acting Judge of Behar.

Commissioner of N. D. Doab.

Ditto of Shahabad.

Magistrate of Mozuffurnuggur

† The Calcutta Court of Sudder Dewanny Adawlut agree in the opinion of the Judge of Moorshedabad on this question.

Or a seceder from either of those religions. Would give judgment for a Hindoo converted to Islamism, that he was entitled to a slave by succession or inheritance, either before or after apostacy, and that the slave was a legal slave by Hindoo law. Thinks also that a Hindoo or Mahomedan converted to Christianity, or other religion, should get his decree for a slave who was a legal slave according to the law from which the plaintiff had seceded.†

Think that the claim of a *British born* subject to be a slave holder could not be recognised ;

Nor that of any Christian.

Would not uphold the claim of a European or East Indian.

Thinks the circumstance of a plaintiff not being a Hindoo or Mahomedan would not bar his claim, if the plaintiff's law recognised slavery.

As amongst the Americans and many European nations slavery is still permitted by law, conceives considerable doubt may be entertained with respect to foreigners being entitled to hold slaves.

As a Magistrate, would support the claim of a British subject to the services of a slave purchased when an infant, but would not uphold a transfer in such cases when the subject was of age.

If the plaintiff was not a Hindoo or a Mahomedan, but the defendant was, as there is no law on one side, would take the law of the defendant, giving the plaintiff the benefit of the law of the country as admissive of slavery.

Would uphold a good purchase by a claimant, not a Hindoo or Mahomedan, on the principle of established usage.

Judge of Moorshedabad.

Judge of Purneah.
Acting Magistrate of ditto.
Principal Assistant at Lohurdugga.
Judge of Tirhoot.
Actg. Additional Judge of do.
Actg. Magistrate of Purneah.
Actg. Magistrate of Shahabad.

Offg. Judge of Etawah.

Offg. Judge of Cawnpore.

Offg. Judge of Etawah.

Magistrate of Mymensing.

Acting Judge of Dacca.

Acting Judge of Sylhet.

Slavery being customary in this country does not think the religion of the master would affect his claim.	Magistrate of Sylhet.	Judge of Bareilly.
The right of ownership would depend upon the validity of the title acquired by the purchaser.	Judge of Patna.	
Thinks that a foreigner not subject to the Supreme Court might claim under the laws of the country.	Judge of Tirhoot.	
Thinks that in claims of other classes than British-born subjects, e. g. Parsees, the Courts would be guided by the custom of the country, whatever that on enquiry might appear to be.	Principal Assistant at Lohurdugga.	
Would entertain no claim against any but a Hindoo or Mahomedan.	Judge of Midnapore. Acting Judge of Dacca. Judge of Tipperah.	Offg. Commissioner of Allahabad.
In disposing of claims of Hindoos and Mahomedans to a slave who was not of either of those persuasions, would regard the law of the defendant as well as that of the plaintiff.		Additional Judge of Ghazee pore.
In disposing of claims of Hindoos and Mahomedans does not think the caste or persuasion of the defendant would be attended to, provided he was not a British or Foreign European subject.		Commissioner of the N.D. Doab.
Admitting that any plaintiff whose laws allowed of slavery might sue, would not admit the legality of the slavery unless the laws of both parties coincided therein.		Offg. Judge of Cawnpore.
A claim to a slave not a Hindoo or Mahomedan might be supported under the <i>lex loci</i> --but would not allow the claim to extend to the offspring.	Judge of Mymensing.	
The onus of proof would fall on the purchaser to shew that the slave was the child of Hindoo or Mahomedan parents, or was otherwise legally the property of the party from whom he was purchased.	Judge of Patna.	
Sees no reason for exempting a Christian, if a native of India, from a claim to him as a slave.		Additional Judge of Ghazee pore.
The Courts in zillah Behar, in enforcing written contracts or voluntary engagements, make no distinction in regard to the religion of the parties.	Magistrate of Behar.	

In cases not of Hindoos or Mahomedans would decide by the laws of the parties.	Acting Additional Judge of Nuddea.	
On principles of British justice, equity, and good conscience, would give the slave the benefit of any doubt in claims to his person or property.		Judge of Mirzapore.

REASONS ASSIGNED FOR SOME OF THE FOREGOING OPINIONS.

For not admitting the claim except when both parties are Hindoos or Mahomedans.		
Because slavery is no where recognised by our Regulation law in such cases.	Judge of Rajeshahy.	
For not admitting any but Hindoo or Mahomedan claimants.		
Because there is no law requiring such an admission, and neither justice, equity, or good conscience can admit such a claim.	Judge of Midnapore.	
Christians, Parsees, Chinese, or any other claimants than Hindoos or Mahomedans, would be required to shew by what law they could claim; and as no law exists in India by which such claims could be supported, the slave would of course have the benefit of the absence of the plaintiff's right.	Additional Judge of Burdwan.	
Because slavery is only allowed in deference to Hindoo and Mahomedan law, and by no other law which is the rule of our Courts.	Judge of Beerbhoom.	
The claimant must prove by his law, and thinks no one can expect to establish such a claim but a Hindoo or Mahomedan.		Magistrate of Benares.
Because the plaintiff could not ground his claim on a law not his own, and against humanity.		Offg. Commissioner of Allahabad.
For not admitting the claims of any but Hindoos or Mahomedans, or seceders from those religions.		
Because slavery is not sanctioned by any system of law which is recognized by the Government, except the Hindoo and Mahomedan laws.†	Judge of Moorshedabad.	
For not allowing the claim of a British-born subject to hold a slave.		

† The Calcutta Sadler Court concurs in this view.

Because, he imagines, a British-born subject might be punished in the Supreme Court for purchasing a slave.	Judge of Tirhoot.	
Because the customs of the country are not exactly applicable to such persons.	Acting Additional Judge of do.	
For not allowing the claim of a European or East Indian.		
Thinks he should be justified on moral grounds, and authorized by the spirit of the British Government, in not allowing Europeans and East Indians to hold slaves.	Acting Magistrate of Shahabad.	
For admitting the suits of others than Hindoos or Mahomedans if their laws recognised slavery.		
Because it has been the custom of the Civil Courts that all parties should have their cases decided by their own laws.		Offg. Judge of Cawnpore.
For admitting the claims of others than Hindoo or Mahomedans.		
Because where no direct law or Regulation applies to a case, the decision should be regulated by established usage, and equity and good conscience.	Acting Judge of Sylhet.	
Because, if slaves by purchase from their parents in times of scarcity be allowed by the laws of nature to be right, does not see why any claimant should be debarred from preferring such claims.		Judge of Bareilly.
Reasons for not admitting a claim against any but a Hindoo or Mahomedan.		
Because Section 9, Regulation VII. 1832, declares, that the rules referred to in the preceding Section were designed for the protection of the rights of bonâ fide Hindoos and Mahomedans, not for the deprivation of the rights of others.	Judge of Midnapore.	
Because there is no law to authorize such person's bondage.	Acting Judge of Dacca.	
Because in that case he would be guided by the law of the defendant, which, in the absence of any direct Regulation or Construction, must be taken to be that of an ordinary British subject in settlements in which slavery is not authorized by law.		Offg. Commissioner of Allahabad.

The following cases, adjudicated in the Civil Courts of the Interior, are selected from the Returns of the public officers.

CUTTACK.—In a case tried by the Sudder Ameen in 1805, 6 or 7, in which a purchaser sued the former master to obtain possession of a slave, the plaintiff was nonsuited on the ground that the slave was not present when the engagement was entered into between the parties, and he was directed to sue for the recovery of his money.

BACKERGUNGE.—Case tried by the Sudder Ameen, also the Mahomedan Law Officer of the Court—September 1820.—Claim of two Mahomedans to two persons (Chundah and Asghurrea,) as their hereditary slaves, dismissed, because “no claim to slavery on persons of Mahomedan faith could be deemed valid in the absence of a regularly executed deed of sale, or other equally conclusive proof.” This decision was confirmed in appeal by the zillah Judge, who remarked that the Moulovv had in his decision declared, “that the Mahomedan Law prohibited persons from consigning to slavery for an indefinite period, and restricted them to a temporary transfer in farm,—an obligation which was alone binding on the person so consigned, and not on his heirs.”

CHITTAGONG.—In a recent case, a Mussulman sued to obtain possession of the daughter of a poor woman whom the mother had sold to him. The Moonsiff (a Mahomedan) dismissed the claim as being contrary to the plaintiff's law, and directed that the purchase money should be returned with some deduction as hire or wages of the girl. The decision was confirmed by the Principal Sudder Ameen (a Hindoo) in appeal, and by the zillah Judge on a special appeal. The remark made by the Judge on this case is to the effect, that custom will not supersede law.

BEHAR.*—From a list of suits instituted in the court from 1825 to 1835, inclusive.

Suit to obtain possession of slaves under a deed of Mortgage or by Byc-bil-wuffa (conditional sale.) Dismissed, on the ground that the plaintiff could not obtain possession until he had petitioned to foreclose the mortgage.

Suit for possession of slaves on plea of having purchased them to save from starvation. Dismissed, on the ground that the plea advanced by the plaintiff is not recognised by any Regulation.

Claim to the services of a slave who had received consideration for the same. Judged, that the slave must not consider himself emancipated until he has repaid the money advanced to him.

Suit for possession of a slave in virtue of a sale by the mother. Decreed for plaintiff.

SARUN.—The Judge of Goruckpore states from recollection a case decided in this zillah, which he examined among others when Commissioner of the Sarun Division, and in which the decision gave freedom to the slave (the plaintiff) on

* In Appendix III. will be found a case (No. 5) decided by the Mahomedan Sudder Ameen of the Zillah Court of Ramghur, and subsequently in appeal by the Judge, from whose decision a petition of special appeal was rejected by the Sudder Court. It is given as illustrative of the following points: 1. The effect of great famines in reducing free persons to a servile condition, and degrading them from a superior to a servile caste. Basanti the mother and grandmother of the persons claimed as slaves having belonged to a superior and non-servile class. 2. The servile condition of the Kuhar tribe in that part of the country. 3. The power exercised by the maternal grandmother in the Kuhar tribe of selling her grandchildren.

condition of his repaying 12 rupees, the nett sum for which he had compounded his liberty, his services being considered equivalent to the interest. The decision was upheld in appeal.

It remains to notice a few insulated points of civil practice which have been stated by some of the public functionaries in their answers.

The Judge of Mymensing on the practice of his Court.

PARTITION OF ESTATES.—In the division of estates, or allotting shares under decrees of Court, it is also usual (if the claim is a hereditary one to an estate) to declare what proportion of the family slaves are to be transferred to the successful plaintiff; but some difficulty always arises out of this part of the order, and generally leads to another suit.

COSTS.—It is the invariable practice when the master gets his decree, to make each party pay his own costs, as the defendant could never pay the whole.

PAUPER SUITS.—The claim is never so high but the most indigent person could defend the suit. A petition to appeal in formâ pauperis is never given.

LIMITATION.—The Judge observes, “Suits used formerly to be instituted for loss of service after the lapse of many years, from the plaintiff's own shewing; that is, the slave had absconded, or ceased to do service for perhaps six or seven years, and often a longer period. I put an effectual stop to the institution of these stale cases, by dismissing them, (whether in a regular suit or in appeal,) whenever the cause of action (i. e. the default of the slave in performing service, or his absconding and leaving his master) occurred more than a year antecedent to the date of the suit being instituted; and which I was warranted in doing under Sec. 7 Regulation II. 1805,* as the suit was always denominated one for ‘Kissara’ or *personal damages*, and may be viewed much in the same light as an action for seduction would be in the English Courts.”

A different principle is acted on in the Court of the adjoining district of Sylhet. The Judge of that zillah, speaking of slaves, who having multiplied beyond the master's means to provide for them, are allowed by the latter to earn a separate or independent livelihood, by letting them cultivate their own lands, or putting themselves out to service, says, “If the period they have been thus independent has exceeded twelve years, in all such cases the claim of the master has been generally refused, as being barred by the rules of limitation, on the plea that slaves were personal, and not real property, and could not be claimed after the lapse of twelve years. But a more general reason has been, that it did not comport with equity to allow the master to claim, where he had for so long a period neglected to provide for the slave.”

The opinion of the Magistrate of the district is perhaps not opposed to the

* But see the judgment of the Sudder Dewanny Adawlut on this point, in the case of Loknath Dutt and another v. Kubir Bhandari and others, Appendix III. No. 8.

above practice, but it is at variance with that established in the court of Mymensing. If, observes that officer, "a slave has by sufferance occupied a separate dwelling for some years, amassed a little property, and become in a manner independent, this person would exercise the same powers both as to his own person and property as any free man. But if the question were brought before a Civil Court, there appears to me no doubt that the rights as laid down in the law would be restored to the master."

PUBLIC SALE OF SLAVES IN SATISFACTION OF DECREES OF COURT.—Slaves had been considered by the Civil Courts of Mymensing available personal property to realize sums due on decrees; but the Judge from whose answer we extract the information, does not permit this practice. "They are now," he says, "never recognized as assets: for if the Court proceeded to sell them it would in fact become a slave-market."

"In the execution of decrees," says the Judge of Rungpore, "it is extraordinary, that although all other description of property has been sold, even to the disposal of Hindoo idols to competent Hindoos, the sale of slaves has been exempted. It appears still more extraordinary, when we find that the sale of children is allowed, and used to be registered: and instances are not uncommon of Mussulmans and Hindoos selling their wives on account of enmity or for gain. But these latter cases never appear in the Civil, and seldom in the Criminal Courts."

Appendix II, No. 142.

No. 2.

Appendix II, Nos. 147,
148, 149.

We learn from a recent communication from the Officiating Judge of Cuttack, that it has not been the practice of the Courts in that zillah to authorize the sale of slaves by public auction in satisfaction of decrees; and we are led to conclude from the evidence of all the witnesses whom we examined on this point, that such a practice does not exist in any part of the country. One witness indeed stated, that "Slaves have frequently been sold in execution of decrees, by order of the Courts in Behar, Patna and Shahabad;" but on reference to the Judges of those districts we find, that no such sales have ever been made by order of any Court in the zillahs of Behar and Shahabad. From the Judge of Patna no reply has been received.

PUBLIC SALE OF SLAVES TO REALIZE ARREARS OF REVENUE OR RENT.—As connected with the above subject, we may here state, that none of the witnesses whom we examined on the point ever heard of slaves being exposed to public sale under the summary process of distraint and sale provided by the Regulations for the realization of arrears of revenue* and rent. And in a correspondence between the Government of Bengal and the Commissioner in Assam, dated 25th March and 10th April, 1829, we find mention made of "orders of the Government passed many years ago against the sale of slaves in satisfaction of arrears of revenue;" which orders, on the occasion of this correspondence, the Government determined, were to "be held applicable to Assam, in common with other parts of the British dominions."

We now pass to the answers connected with the Criminal branch of Judicature.

* Mr. Robertson, in his evidence before the Committee of the House of Lords in 1830, says on this point, "I do not remember a single instance of an application for a sale of slaves in such a case in Upper India." Question No. 1705.

SUBSTANCE OF THE ANSWERS TO QUERY FIRST.

A master, either Hindoo or Mahomedan, is considered to have a right to his slave's labour.

Offg. Magistrate of the S. D. of Cuttack, at Pooree.

Some Magistrates admit only the right of a Hindoo master.

Acting Judge of Chittagong.

The master's power is not absolute.

Joint Magistrate of Noakhollce.

No right over person or property of slaves would be admitted in the Criminal Courts, except such as the Mahomedan law and Regulations warranted.

Judge of Moorshedabad.

The customary services of the slaves would be allowed, but no defined legal right over his person or property is recognised by the Criminal Courts.

Judge of Bhau-gulpore.

The right of a master over the person and property of his slave, as over other property, is considered as fully recognised by law. When collisions between master and slave do arise, which is seldom the case, and interference cannot be avoided, the practice is, so far to respect the custom as to avoid any order of manumission, or exemption from service or other legal claim. But claimants to the person or property of any slave under deed of sale, mortgage or otherwise, would be referred to the Civil Court.

Magistrate of Ghazcepcorc.

Some Magistrates arrest a run-away slave on the complaint of the master ;

Acting Judge of Chittagong.

This is the case in Tirhoot, and the deserter is restored to his owner ;

Magistrate of Tirhoot.

But on such complaints of flight or recusance of the slave, the Magistrates, before apprehending or passing orders, have usually demanded proof of the slave's amenability, either documentary or by the slave's admission.

Magistrate of Behar.

Some Magistrates interfere only when the complaint includes a charge of stealing or absconding with property ;

Acting Judge of Chittagong.

Which appears to have been the practice in the Magistracy of Bolundshuhur.

Magistrate of Bolundshuhur.

The master, both Hindoo and Mahomedan, is held bound to furnish good and sufficient food and clothing to his slave.

Offg. Magistrate S. D. Cuttack

<p>The Magistrate would not interfere on a complaint of flight or recusance unless the master had contracted to support his slave.</p>	<p>Magistrate of Behar.</p>	<p>Offg. Joint Magistrate of Etawah.</p>
<p>When a female slave has quitted her master's house on account of bad treatment, has never allowed her to be restored to her master against her will.</p>		<p>Judge of Gorruckpore.</p>
<p>The practical rights of masters, as recognised by the Magistrates, have been as those of English masters over their apprentices; their engagements being liable to be annulled on the plea of ill usage, and other good ground shewn; the slavery being merely nominal.</p>		<p>Ditto.</p>
<p>In the Banda Court petitions were frequent from masters to the Magistrate to apprehend slaves said to have absconded, and the same assistance was given as would have been given to a master complaining of the desertion of his private servant.</p>		<p>Offg. Magistrate of Allahabad</p>
<p>Some Magistrates refer masters seeking to recover a slave to the Civil Court,</p>	<p>Acting Judge of Chittagong. Joint Magistrate of Noakhollie. Judge of Myensing. Magistrate of Bhaugulpore.</p>	<p>Offg. Joint Magistrate of Kashi.</p>
<p>acknowledging, <i>prima facie</i>, no right of the master, regarding the partial recognition by the British Government of the rights of masters over their slaves as affecting their property rather than their persons.</p>		<p>Commissioner of Ghazee-pore. Magistrate of Bareilly.</p>
<p>Many cases have been summarily disposed of by the Magistrate in the zillah of Behar by setting the alleged slave at liberty, and binding over the master to sue within a given time to prove his right.</p>	<p>Judge of Patna.</p>	
<p>The Magistrates were prohibited taking cognizance of cases involving the question of right to a slave.</p>	<p>Commissioner of Patna.</p>	

The Magistrates at Allahabad have for several years past refused to lend their aid to apprehend or restore fugitive slaves.

The Magistrate of Cawnpore (in which district applications come only from Mahomedan masters) does not authorize a fugitive slave to be delivered over to his master against his will.

The Magistrates do not attend to the Hindoo and Mahomedan laws of slavery.

The Magistrates do not recognise any legal rights of masters over the persons or property of slaves.

The Criminal Courts have always treated the slaves as freemen, making no distinction between them.

The Magistrates of Bengal never recognise the right of the master over the person of the slave.

Such a right has never been recognised in the Magistrate's Court at Cuttack.

The rights allowed by the Hindoo and Mahomedan laws to the master have not been admitted in the Western Provinces since the introduction of the British rule.

No right of the master over the person of the slave is recognised in the Magistrate's Court at Moradabad.

In the Court of the Magistrate of Furruckabad neither is the right of the master over the slave, nor the claim of a slave on his master, acknowledged; nor have such rights or claims been acknowledged in any Criminal Court with which the Magistrate of Furruckabad is acquainted. On applications to arrest runaway slaves the Court declares its incompetence to restore slaves to their owners.

Offg. Magistrate of Allahabad.

Magistrate of Cawnpore.

Magistrate of Humeerpore.

Joint Magistrate of Bograh.

Commissioner of Cuttack.

Officiating Judge of Behar.

Offg. Magistrate of Cuttack.

Ditto.

Magistrate of Muttra.

Judge of Moradabad.

Magistrate of do.

Offg. Judge of Furruckabad.
Magistrate of do.

Officers who

Would admit the claims of masters to the person, property, and services of slaves born within the British Territories.

Would enforce the mutual rights and obligations of masters and slaves when legally proved, and punish the deviating party.

Regards the right of the master to the slave's person as entire, provided no cruel treatment is proved; so also as respects property, until other-

Magistrate of Bolundshuhur.

Actg. Magistrate of Nuddea.

Offg. Magistrate of Beerbhoom.

wise adjudged by the Civil Court, to which he would refer the slave.

Consider that both Hindoo and Mahomedan masters undoubtedly possess legal rights over the persons of their slaves as far as affects their liberty and services ; and over their property unconditionally ; but the masters are in no way allowed to maltreat their slaves.

Would adjudge the master entitled to the services of the slave, but would sanction no greater coercion than in the case of a freeman. Would enforce the voluntary submission to slavery of one advanced in life, when done by deed of sale.

Would treat cases between master and slave by the rules of masters and servants under Regulation VII. 1819.

Consider that the Regulations do not authorize a Magistrate to recognise in the master any further power over his slave than he would possess over any other servant ; but that proof of any specific contract between the master and a reputed slave would bring the case under Clause 4, Section 6, Regulation VII. 1819, which he regards as a distinct case.

In case of dispute respecting a slave's property, would uphold the person in possession, and refer the other party to a civil suit, considering that a Magistrate has nothing to do with the right of property, but merely to decide on the fact of possession.

Would not aid a master to recover his fugitive slave ;

Nor restore any clothes or ornaments used by the slave ;

But would prevent a third party taking away a slave against his master's will.

Would apprehend a slave accused of absconding with his master's property, and after punishing him for the theft, set him at large.

Would not recognise the relation of master and slave ;

Unless by the special direction of superior authority.

Magistrate of
Mozuffurnug-
gur.

Magistrate of
Mymensing.

Commissioner of
Baulcah.

Magistrate of
Azimghur.

Magistrate of
Cawnpore.

Magistrate of Actg. Magistrate
Backergunge. of Juanpore.

Magistrate of
Azimghur.

Ditto.

Ditto.

Actg. Magistrate
of Juanpore.

Actg. Magistrate
of Sarun. Magistrate of N.
D. of Morada-

bad (Bijnore.)
Ditto.

Are aware of no legal rights possessed by masters over the persons or property of slaves that have been or could be recognised by the Magistrates.

Regard slavery as abolished by law.

Actg. Joint Magistrate of Midnapore.

Actg. Magistrate of the 24-Pargunnahs.

REASONS ASSIGNED FOR SOME OF THE FOREGOING OPINIONS.

For the recognition of slavery by the Magistrates.

The inference to be drawn from the Construction of Regulation X. 1811, contained in the Circular Order of the Nizamut Adawlut, No. 141, dated 5th Oct. 1814, and the letter of the Superintendent of Police for the Western Provinces which accompanied it.

Particularly as respects the sale of infants and children during scarcity.

Actg. Magistrate of Shahabad.

Magistrate of Ghazee-pore.
Magistrate of Bolundshuhur.

Judge of My-mensing.
Magistrate of do.

For not restoring to the master against her will a female slave quitting her owner's house on account of bad treatment.

Because it is agreeable to the spirit of British Legislation, though not strictly according to Hindoo or Mahomedan laws, which recognise the state of positive slavery in both sexes.

For regarding the relation of master and slave in the light of that of an English master and his apprentice, and dissoluble for ill usage or other good reason.

Because the Magistrates are guided by humanity, equity and good conscience.

For not regarding the Hindoo and Mahomedan laws of slavery.

Because they are so directly opposed (especially the Hindoo) to English notions of reason, liberty and right.

For not recognising the rights of masters over their slaves.

Because, in the opinion of the Magistrates, the Regulations do not recognise slavery.

Joint Magistrate of Bograh.

Officiating Joint Magistrate of Etawah.

Judge of Goruck-pore.

Magistrate of Humeerpore.

Because there is no Regulation expressly authorizing the Magistrate's interference in favor of the master, and few Englishmen would enforce the right, if such a term can be used, of the master over the slave without some strong motive.

**Magistrate of
Furruckabad.**

SUBSTANCE OF THE ANSWERS TO QUERY SECOND.

Officers who

Consider that the relation of master and slave would justify the moderate correction of the slave by his master for disobedience, insubordination, insolence or desertion,

Offg. Magistrate
S. D. Cuttack
(Pooree.)

**Additional Judge
of Ghazee-pore.
Judge of Mirza-
pore.**

**Offg. Magistrate
Beerbhoom.**

**Judge of Back-
ergunge.**

*Magistrate of do

*Judge of Tip-
perah.

Magistrate of
Sylhet.

Offg. Magistrate
of Gawalpara.

*Judge of Di-
nagapore.

**Judge of Pur-
neah.**

Actg. Magistrate
of ditto.

*Commissioner
of Bhaugul-

pore.
Judge of Bhau-

Judge of Beer.

bhoom.
Actg. Additional

Judge of Nuddea.
Judge of Beer-

bhoom.
† Magistrate of

Behar.
Judge of Patna.

*Offg. Judge of
Etawah.

f Magistrate of
Ghazeepore.

† "A master would not be punished, the Court opine, for inflicting a slight correction on his legal slave, such as a teacher would be justified in inflicting on a scholar, or a father on his child; but no act of hard usage or cruelty would be permitted." Para. 7. Answer of Calcutta Sudder Court. Appendix II. No. 2.

See the answer of the Allahabad Sudder Court. Appendix II, No. 84.

<p>To a master over a servant ; To an English master over his apprentice ; To preserve order in the family.</p>	<p>Judge of Patna. Judge of Tirhoot. Principal Asst. at Lohurdugga.</p>	
<p>Would allow correction as to a father over a son, but more limited for adult slaves. Such, as far as he knows, is the practice, and is in strict accordance with native feeling.</p>	<p>Joint Magistrate of Noakhollce.</p>	
<p>The slave would get less redress than others for petty assaults by his master.</p>	<p>Actg. Judge of the 24-Purgunnahs.</p>	
<p>But nothing beyond such moderate correction would be allowed ; and abuse of that power, undue severity, ill treatment, hard usage, unjust and tyrannical conduct and cruelty of the master, would be punished.</p>	<p>Offg. Magistrate S. D. of Cuttack (Pooree). Judge of Beerbhoom. Offg. Magistrate of ditto. Actg. Additional Judge of Nuddea. Judge of Backergunge. Magistrate of Sylhet. Offg. Magistrate of Gawalpara. Judge of Dinagepore. Judge of Purneah. Actg. Magistrate of ditto. Principal Asst. Lohurdugga. *Commissioner of Bhaugulpore. Judge of Bhaugulpore. Magistrate of Behar.</p>	<p>Additional Judge of Ghazeepore. Magistrate of do.</p>
<p>In such cases the slaves would receive from the Magistrate the same protection against their masters as would be shewn to parties not standing in that relation.</p>	<p>Judge of Patna.</p>	

Such cases would be dealt with as between free-men.	Judge of Tirhoot.	Judge of Mirzapore.
A master would also be punished for expelling his slave.	Magistrate of Behar.	
Nor would the Courts allow acts against the law of nature ; and a Magistrate would interfere if it was attempted by sale or otherwise to separate an infant from its mother.	Magistrate of Sylhet.†	
Would allow refusing to serve to be a palliation of maltreatment, like as between master and servant.	Magistrate of Backergunge.	
Thinks the Magistrates would regard the slaves as servants, but not release them from confinement in the master's house, else slavery would be at an end ; and that the Magistrate should only interfere in cases of severe maltreatment.	Commissioner of Chittagong.	
The relation of master and slave is not considered by the Magistrates a bar to punishment.		Commissioner of Ghazee pore.
It would not protect from punishment for cruelty,	Offg. Judge of Hooghly.	
• Ill treatment,	Judge of Nuddca. Joint Magistrate of Furreedpore. Actg. Judge of Sylhet. Acting Judge of Behar.	
Or oppression.	Actg. Magistrate of Shahabad.	
Such ill usage and cruelty would be dealt with as in the case of a freeman.	Acting Judge of Chittagong. Actg. Magistrate of Dinagepore. Governor General's Agent S. Behar. Principal Asst. at Hazareebaugh (South Behar.) Commissioner of Patna. Offg. Judge of Shahabad.	Magistrate of Moradabad. Offg. Magistrate of Saharunpore.

† See his evidence also, Appendix I. No. 5.

No mitigation of punishment would be allowed in consequence of the relation.

The master would be punished as a husband or father for similar ill treatment of a wife or son ;

As a master for cruelty or ill treatment of a servant.

Has always protected slaves as he would free servants.

Thinks the Magistrates in petty cases would punish as an offence against a free servant, and that the Circuit Courts would permit no greater latitude than to the master of a servant.

Believes maltreatment is punished by all Magistrates as of a free servant, but that the Courts of Circuit would be guided by Mahomedan law, except in trials in which, under Clause 1, Section 4, Regulation VI. 1832, no Futwa was required.

Would punish maltreatment as of a common servant.

Presumes, that as the penal Regulations have no where recognised slaves as a separate class, in all trials for crimes specially noticed in them no distinction would be made in cases in which the parties stood in the relation of master and slave ; but in crimes not thus provided for, and where the Courts are referred to the Mahomedan law to apportion the punishment for an offence of which a master or his slave may be convicted, conceives that the Courts are legally bound by that law in their judgments.

Equal protection is given to all under British rule.

In administering justice there is no respect of persons, or of the relation of master and slave.

Our Courts do not recognise the relation as ground of justification or mitigation. Complaints of ill treatment either of Hindoo or Mahomedan slaves against their masters are determined precisely as others, and they receive the same protection under the general Regulations.

It has always been the practice of the Criminal Courts to give equal protection to the slave in every respect as to a freeman ;

Judge of Mymensing.

Actg. Magistrate of Nuddca.

Judge of Moorshedabad.

Additional Judge of Burdwan,

Judge of Rungpore.

Commissioner of Cuttack.
Actg. Magistrate of Tipperah.

Judge of Benares.

Judge of Goruckpore.

Magistrate of Cawnpore.

Commissioner of Muttra.

Judge of Meerut.

Commissioner of the N. D. of the Doab.

<p>Allowing no chastisements, nor any justification or mitigation grounded on the relation ;</p> <p>And that without any reference to the Hindoo or Mahomedan law on the subject.</p> <p>Such is the practice in the Courts of the Magistrates of Benares, Allahabad, Bolundshuhur and Moradabad ;</p>	<p>Actg. Magistrate of Tipperah.</p> <p>Commissioner of Cuttack.</p>	<p>Magistrate of Benares.</p> <p>Judge of Allahabad.</p> <p>Offg. Magistrate of ditto.</p> <p>Magistrate of Bolundshuhur.</p> <p>Magistrate of Moradabad.</p>
<p>Also in all the Criminal Courts in which the Officiating Magistrate of Midnapore has presided.</p> <p>It is the practice of the Court of the Dacca Magistrate to afford full protection for cruelty or hard usage, and not to recognise the relation as ground of justification or mitigation.</p> <p>Has never recognised the relation as ground of justification or mitigation.</p> <p>Has never seen any distinction made between slave and free in our Courts, nor any attention paid by the Magistrate to the Hindoo and Mahomedan laws on the subject.</p>	<p>Offg. Magistrate of Midnapore.</p> <p>Magistrate of Dacca.</p> <p>Magistrate of Bhaugulpore.</p>	<p>Magistrate of Humeerpore.</p>
<p>Full protection would be given to the slave against cruelty or hard usage ; the relation would not be held ground of justification or mitigation for any act otherwise punishable, as under the Hindoo or Mahomedan laws, but the same protection would be given to slaves as to freemen.</p>	<p>Joint Magistrate of Bograh.</p>	<p>Actg. Magistrate of S. D. Bundelcund (Banda.)</p> <p>Offg. Judge of Furruckabad.</p> <p>Magistrate of do.</p> <p>Judge of Moradabad.</p>
<p>Would punish a master for an assault on his slave, with the same severity as for an assault on a freeman.</p>	<p>Magistrate of Moorshedabad.</p>	<p>Magistrate of Azimghur.</p>
<p>Would sanction no greater coercion on a slave than in the case of a freeman, and punish maltreatment.</p>	<p>Magistrate of Mymensing.</p>	
<p>Would give a slave the same protection as a freeman ;</p>	<p>Magistrate of Rungpore.</p>	<p>Judge of Allahabad.</p> <p>Offg. Commissioner of do.</p>

And make no distinction in cases of cruelty or any minor amount of bodily ill usage.

Would not allow the relation to justify any acts otherwise deserving of punishment; and would in no case afford less protection to a slave against his master than to any other man.

On complaint of ill usage would give the fullest protection to a slave as to a freeman, and keep redress equally open to all.

Thinks that the relation would not justify or mitigate, and that protection would be given both against owners and others.

Would give the same protection to a slave against his master, both as to property and person, as to a free man.

Would punish ill treatment without reference to the relation; and would investigate complaints, whether of owners or slaves, as between man and man, and not as between master and slave.

Would not consider the relation as absolving the master from punishment in any case of maltreatment or oppression, although in a case of lenient and summary correction inflicted on the slave for a fault, he might not be induced to view the matter precisely in the same light as he would were a person unconnected with the defendant to be the subject of the chastisement awarded.

EMANCIPATION.

Some Magistrates separate master and slave in cases of maltreatment; some only take security from the former.

In one or two cases in the Magistrate's Court at Bolundshuhur slaves complaining of the oppression of their masters were declared free.

The Officiating Magistrate of Futtehpore did so in two cases of cruelty brought before him.

Would emancipate a slave for cruelty;

For ill treatment.

On demand of freedom on account of ill usage would give the fullest protection to a slave as to a free man.

Offg. Commissioner of Alahabad.

Offg. Judge of Cawnpore.

Magistrate of Shahjehanpore.

Actg. Joint Magistrate of Midnapore.

Actg. Magistrate of the 24-Purgunnahs.

Actg. Magistrate of Juanpore.

Magistrate of Mozuffurnugur.

Commissioner of Chittagong.

Magistrate of Bolundshuhur.

Offg. Magistrate of Futtehpore.

Joint Magistrate of Baraset.
Magistrate of Behar.

Magistrate of Shahjehanpore.

Emancipation could be authorized by nothing short of the most extraordinary maltreatment.

The practice of the Magistrate's Court at Cuttack is, and always has been, to punish the master and manumit the slave on complaint of cruelty or hard usage, or if the slave has any other reason for wishing to leave his master; it matters not if the alleged ill treatment or cause of dissatisfaction is proved or not, the order runs thus always:

"We do not recognise slavery; you may go where you please, and if your master lays violent hands on you he shall be punished."

If a person stated himself to be living under restraint he would be allowed to go free.

A petition from a friend or relation of a slave that the latter is retained against his will by his master, would immediately ensure his release.†

The practice of the Criminal Courts is usually to release the slave from bondage.

Offg. Magistrate of Cuttack.

Joint Magistrate of Bograh.
Actg. Magistrate of Tipperah.

Magistrate of Ghazee-pore.

Judge of Meerut.

INDULGENCES.

The indulgences granted to slaves by the Mahomedan law, (according to all the answers but one touching on the point,) have not been and would not be allowed by the Criminal Courts.

The Acting Magistrate of Banda, on the supposition that the indulgences alluded to are the same as those mentioned in the Bab-ool-Hukkook of Imam Azzum, would adhere as closely as possible to the Mahomedan law in this respect.

Actg. Magistrate of S. D. Bundelcund (Banda.)

REASONS ASSIGNED FOR SOME OF THE FOREGOING OPINIONS.

For punishing maltreatment of a slave as of a common servant.

Knows of no Criminal Regulation giving the master greater power over his slave than over a free servant.

Magistrate of Cawnpore.

For giving equal protection to slaves as to free-men.

Slavery is not recognised by the Regulations.

Magistrate of Rungpore.

† In a list before us of nine criminal cases decided in this zillah in 1837 and 1838, we find it stated in six that the slaves were ordered to be made over to their masters.

<p>The British Government professes to extend equal protection to all, and there is nothing in the Regulations contrary thereto.</p>		<p>Magistrate of Benares.</p>
<p>The Regulations make no distinction for cruelty or any minor amount of bodily ill usage between bond and free. Refers to the Circular Order of the Nizamut Adawlut, No. 4, dated 27th April, 1796, notifying that the castration of slaves is criminal, and punishable by the Mahomedan law.</p>		<p>Offg. Commissioner Allahabad.</p>
<p>The Regulations make no difference between slaves and freemen.</p>		<p>Actg. Magistrate of Allahabad.</p>
<p>Knows no Regulation which compels a Magistrate to carry the precepts of the Mahomedan law into effect on the subject of slavery.</p>		<p>Offg. Judge of Cawnpore.</p>
<p>The Regulations define the jurisdiction of the Criminal Courts in misdemeanours and smaller offences. The Magistrate's powers are defined without respect to persons, caste or religion, and in the Session Courts, unless a specific provision be made for any particular offence, cognizance is ruled in Clause 7. Sec. 2, Reg. LIII. 1803, the same for all classes of people who may be amenable to the Court.</p>		<p>Offg. Judge of Furruckabad.</p>
<p>There is no Regulation authorizing a master corporally to chastise his slave.†</p>		<p>Magistrate of Furruckabad.</p>
<p>Thinks that from the spirit of the Regulations no distinction of person could be recognised by the Magistrates.</p>		<p>Magistrate of Shahjehanpore.</p>
<p>It is stated by the Magistrate of Rajeshahy, that he has every reason to believe, that the wealthy Mahomedans of that district do not suppose that the interference of the Criminal Courts is more circumscribed with regard to their conduct or treatment of their domestic slaves than of any other class of the community.</p>	<p>Magistrate of Rajeshahy.</p>	
<p>For emancipating the slave on proof of cruelty, ill treatment, or oppression.</p>		
<p>Would take the case of Nujoom-oon-Nisa as a precedent.</p>	<p>Joint Magistrate of Baraset.</p>	

† The following is the evidence of Mr. T. C. Robertson before the Select Committee of the House of Lords on this subject.—1895. Have their masters any power of punishment?—None recognized by our laws. Whatever may be the provision of the Mohamedan or Hindoo codes to that effect, it is a dead letter; for we would not recognize it. The master doubtless may sometimes inflict domestic punishment, but if he does, the slave rarely thinks of complaining of it. Were he to do so, his complaint would be received.—1896. Did you, under the Regulations under which you acted, feel justified in punishing the master if he did inflict personal correction?—Most unquestionably.

See the judgment of the Presidency Nizamut Adawlut in the case of Sheikh Hazari, and others. Appendix III. No 9.

Would emancipate in such case without reference to Hindoo or Mahomedan law, on the principle of justice.

Has emancipated for cruelty on the principles of English justice and humanity.

The Magistrate of Bolundshuhur gives the following as an extract from the last clause of the Section on Maintenance in the Hidayah, as apparently in some measure justifying the manumission of the slave who is oppressed by his master.—“Masters are enjoined to feed and clothe, as they would themselves, their slaves. Should they neglect to do so, and the slave be capable of earning his livelihood by his own labour, he shall be entitled to do so. But the surplus profits of his labour, after his feeding and clothing, shall be the property of his master : and if he be from infirmity or other cause unable to labour, the ruler of the country may compel the master to sell him to others who will provide for him ; and if no purchaser be found, he shall manumit the slave.”†

For manumitting the slave on complaint of cruelty, hard usage, or other cause of dissatisfaction, whether proved or not.

Because there is no special enactment against such interference, and humanity and justice are in favor of it.

For allowing any person to go free who states himself to be living under restraint.

Because slavery is not recognised by the Regulations.

Magistrate of Behar.

Offg. Magistrate of Futtehpore.
Magistrate of Bolundshuhur.

Offg. Magistrate of Cuttack.

Joint Magistrate of Bograh.

SUBSTANCE OF THE ANSWERS TO QUERY THIRD.

All the officers who have replied to this question agree, that no distinction has been or would be made in such cases between Hindoo and Mahomedan masters ; the several reasons stated for which are ;

1. That the Hindoo law itself permits only moderate correction of the slave by his master, and declares abuse of that power punishable.

2. That no part of the Hindoo criminal law is recognised either by Regulation or practice.

3. That the Criminal Courts are guided by the Mahomedan law as modified by the Regulations, which last make no distinction between Hindoo and Mahomedan masters.

† This does not appear to be an exact translation of the original text, which, however, seems to point to the same conclusion.

4. That in the absence of any express law in support of the unlimited authority of the Hindoo master, such authority would not be allowed to operate against the general spirit of the Regulations, and the principles of public justice and humanity.

The following is an extract from the reply of the Magistrate of Agra, who has entered at some length into this subject.

"As regards the principle by which the Criminal Courts should be guided in applying the general provisions of the existing penal law to slaves and masters of whatever religion, the question does not, I confess, seem to me surrounded with any great difficulties, in respect at least to that portion of the British dominions which was included in the Mahomedan Empire, virtually during the reign of Aurungzebe, and nominally too during the convulsions to which Hindoostan and Bengal were subject during the eighteenth century. Whatever part of the territories of the Company were embraced within this Dar-ool-Islam, were by law and practice subject to the criminal jurisdiction of the Imaum and his delegates. During the reign of Acbar⁽¹⁾ no doubt the Hindoos retained much of the privileges of their shasters, but in the subsequent three reigns there seems no sufficient reason for considering that the Mahomedan criminal law was not effectively and indiscriminately enforced upon all classes of society. All questions connected with public wrongs were determined, or at least were, I conceive, liable to be determined by the law of the Imaum; and whatever proprietary rights in slaves were permitted or acknowledged to rest in the persons of infidels, this could be but merely recognised as subsidiary to the paramount rights of the Hakim as the successor of Mahomet, the conqueror of the country, and depository of the law as well as the religion of Islam. Such at least, it appears clear, the Mooftee would have ruled in his Futwah, and the Cazee would have enforced in his order during the seventeenth century; and hence, as the Regulations of the British Government, in regard to offences against the state as distinguished from private wrongs, distinctly recognise the Mahomedan law as the criminal code of the country, I feel no scruple in expressing my opinion that Hindoo masters, in respect to responsibility for the ill-treatment of slaves, possess not legally, or rather constitutionally, greater immunity within the limits referred to, than could be claimed by the professors of the Mahomedan religion under the Futwabs of our own Mooftees."

"Should this view of the subject appear in any degree fanciful or forced, it is to be remarked, that the criminal law as administered under Regulation VI. and Regulation VII. 1803, is undefined and anomalous to a degree, which renders it necessary to the student to fall back upon first principles, and the Magistrate, among conflicting analogies, must select that which is most "consonant to natural justice."*

* Clause I. Section 15, Regulation VII. 1803.

"Clause I. Section 16, Regulation III. 1803, would doubtless bar a claim for damages for personal injury on the part of a slave against a Hindoo or Mahomedan master. He is presumed to possess no civil rights. But the ruler of the country, the Hakim-ool-Wuqf, or the father of his subjects, alike under the Mahomedan

(1) "The toleration of Acbar towards the Hindoos was notorious; but even he in his instructions framed for the guidance of the Police directs, 'He must not allow private people to confine the person of any one, nor admit of people being sold as slaves. He shall not allow a woman to be burnt contrary to her inclination.'"—*Ayeeen Acbaree*, vol. I. p. 302 (375-6 ?)

law, the English law, and the law of nations, is justified in reserving in its own hands the power of depriving any subject of life or limb, and in punishing whoever assumes to himself a prerogative, which can be claimed with fairness and administered with justice by the state alone."

We may remark, that on further investigation we do not perceive any material difference between the Hindoo and Mahomedan law in regard to the master's power of summary correction of his slave.

SUBSTANCE OF THE ANSWERS TO QUERY FOURTH.

All the officers who have adverted to this point agree, that in no case would less protection be shewn to slaves than freemen against other wrong-doers than their masters.

Criminal cases selected from the Returns of the Public Officers.*

BANCOORAH.—In 1830 a Barkundauz was reprimanded for enticing away a female slave from her mistress, and the slave was restored to her owner.

MYMENSING.—A Moonsiff, who was also a Kazee of this zillah, and a moollah, were fined by the Magistrate, because the former had inveigled a woman and her daughter, who were Syuds, on pretence of marrying the latter to a relation, but married her to one of his slaves. The Commissioner of Circuit, on revising the case, added imprisonment, and the Moonsiff was removed from his situation.

SYLHET.—Three cases tried by the Magistrate and Officiating Magistrate in 1824, 1835 and 1836, in which, as involving disputed rights of property in slaves, the parties were referred to the Civil Court. The order in the second case was confirmed in appeal by the Commissioner of Circuit.

A complaint preferred to the Magistrate in 1824 to recover possession of several slaves who had absconded twelve or fourteen years previously, and had since lived on the defendant's lands, held by the Magistrate to be not cognizable in his Court.

Case tried by the Mahomedan Law Officer in 1835, and confirmed in appeal by the Magistrate. A charged B with having taken away C his (A's) wife, who was the slave of B. B answered that both A and C were his hereditary slaves; that a year before A had run away to a third party, and now wanted to get possession of his wife. C said that she was B's slave, and consented to remain with him. The defendant was discharged, and C allowed to go where she pleased.

Case tried by the same officer in 1835. A charged B with confining her daughter in consequence of her (A's) refusing to give him a written agreement of servitude:—she subsequently stated that she had received back her daughter through a friend of B. B replied that both A and her daughter were his slaves, that A had left him, but her daughter remained with him, and that the daughter, whom he had sent to the Court with his friend to appear as summoned, had been

* The Officiating Magistrate of Hooghly has animadverted on a Futwa delivered in a case found in his records, in which two females, who had quitted the house of a Mahomedan Nawaub of the Sheea caste, were, in consequence of it, restored to him; but, on examining the Futwa, we find that the question referred to the Law Officer related to usufructuary or temporary marriage, which is reprobated by the orthodox, but apparently permitted to Sheeas, and that no point of slavery was involved in it.

taken away on the road. The sole object of A being to recover her daughter, the defendant was discharged, and the daughter ordered to be made over to her mother, if she desired it.

Case tried by the same officer in 1835. A, stating herself to be the slave of another party, charged B with seizing her and attempting to marry her to his slave against her will. B answered that A was the wife of his slave. But it appearing by the evidence that the marriage had not been legally consummated, and as the seizure for the purpose asserted was proved, both B and his slave were ordered to enter into recognizances of 50 Rs. each not to molest the prosecutrix.

Case tried by the Acting Magistrate in 1836. Two female slaves of the defendant (who was the Principal Sudder Ameen of the zillah Court) prosecuted him for beating them. The defendant admitted that he had done so slightly, and pleaded the custom of the country to beat slaves for disobedience or neglect. The defendant was warned not to beat his slaves with severity.

The parties in the four preceding cases were Mahomedans.

BEHAR.—Statement of criminal cases in the Behar Court from 1825 to 1835 inclusive.

<i>Substance of complaint.</i>	<i>No. of cases</i>	<i>Ordered to be delivered to their masters.</i>	<i>Referred to the Civil Court.</i>	<i>Parties discharged without any specific order.</i>	<i>Amicably adjusted.</i>	<i>Punished.</i>	<i>Acquitted.</i>	<i>Struck off the file.</i>
Master v. Slave								
For running away & carrying off property.	4	2	2	0	0	0	0	0
For abconding, to run away.	4	0	0	3	1	0	0	0
Master v. Master								
For possession of a slave—with ass:	62	7	27	4	4	4	12	4
For enticing away slaves.	2	1	0	0	0	1	0	0
Total.	72	10	29	7	5	5	12	4

PATNA.—1828. Charge of cruelty to a female slave by burning her body. The slave was directed to go where she pleased, and the defendant, her mistress, not to oppose her so doing, but to sue in the Civil Court if she had any claim on her.

1830. Two slave girls charged with eloping from the house of the master. Directed to go where they pleased.

1830. Charge of putting fetters on a female slave. The defendants were released, and the slave directed to remain where she pleased.

1835. Two slave girls charged with eloping from their master's house with property. The slaves were imprisoned for fourteen days, without labour, and then made over to their master.

1835. Charge of beating and cruelty to two female slaves by burning their bodies. The slaves were directed to go where they pleased, and a recognizance required from one of the defendants (females) not to oppress the slaves.

1835. A female slave charged with theft of jewels, and elopement. The case was struck off the file in consequence of the non-attendance of the prosecutrix, and the slave directed to go where she pleased.

All the above cases were disposed of by the Officiating Magistrate or Assistant to the Magistrate, except the last, which was referred to the Principal Sudder Ameen (a Hindoo.)

GHAZEEPORE.—In 1827 A charged B with forcibly and illegally detaining from him his wife and child. It appeared in evidence that the woman had been purchased by B when an infant, and had acted as his female slave (Kuneez) ever since; she had married A with her master's consent, without prejudice to B's right of property over her. The Magistrate said that he had no jurisdiction, and referred A to the Civil Court. The Commissioner of Circuit confirmed the decision after taking the Mooftee's opinion.

The Officiating Commissioner of Allahabad states from recollection a case in which a slave was charged by his master with theft, and which was tried under the general Regulations as applicable to cases where freemen are concerned.

The Officiating Judge of Futtehpoore mentions three cases of cruelty on the part of masters and mistresses towards some of the Bundelcund children sold by their parents during the famine of 1833-4, which were brought to his notice in 1834. In two of the cases he released the children on the ground that their owners were not fit or deserving to take care of them, and in one case punished the owners to the extent of his power; in the others the owners were committed, and punished by the Sessions Judge.

BAREILLY.—Statement of two cases in this Court in the last ten years.—One a case of severe beating of a slave by his master, a Mussulman Nawaub, in which, though the right of the master to beat his slave at pleasure was not formally recognised, yet the situation of the slave seems to have operated with the Magistrate as a bar to punishment, as nothing was done, though the beating inflicted was such as would certainly have been visited with a severe penalty in a case where both parties were freemen.—The other, of recent occurrence, was a complaint of ill treatment, in which two slave girls absconded and refused to return to their homes. The master was a Mahomedan of rank. The Magistrate refused to coerce the slaves as they complained of ill treatment, and merely provided for their future safety.

MORADABAD.—Case reported by the Acting Magistrate of the Southern Division of Bundelcund (Banda) as having recently occurred at Moradabad. A, a Mahomedan, had two slaves, male and female, whom he married: the woman went astray, and her husband died shortly after, leaving two daughters and considerable effects. She came and claimed the offspring and effects as legal heir. The master objected, and the case came into Court. Two Futwahs were obtained, both in favor of the master, on the ground that as he had a right of property in the persons of the parents, all they possessed, with their children, must also necessarily be his, and that more especially in a case where the mother had committed adultery. The master was therefore admitted as the legal heir of his slave.

NORTHERN DIVISION OF MORADABAD, BIJNORE.—One of two cases on the records of this Court. A slave girl complained that her master had beaten her, but could not prove it. The master was bound over to keep the peace towards her. "This," remarks the Magistrate, "argues that had she been able to prove her

charge, the defendant would have been punished, and also that he was not at liberty for the future to assault her more than any body else."

SALE OF FEMALE CHILDREN TO PROSTITUTES.—A few only of the public officers have adverted to the practice of the Courts in cases connected with this part of the subject. The information they have furnished tends to shew that the proceedings of the Magistrates on this point are pretty uniform.

In Jessore, when prostitutes, who have purchased young female children, complain of their having absconded with their clothes, &c. the Magistrate always declares the girls free, and refers the plaintiff to a civil suit to recover the clothes.

In Mymensing, if a female sold for prostitution complains to the Magistrate, either because really ill used, or at the suggestion of a paramour, on proof of ill treatment, and prayer not to be compelled to return to her mistress, the Magistrate declines to restore her, and refers the mistress for redress to the Civil Court, "in which," observes the Judge of the district, "she is not likely to get much, as such a claim of slavery, or a slave purchased for such purposes, is neither tolerated in the Mahomedan or Hindoo law, and would never be listened to in a British Court of Justice." This officer states that he found on his arrival in the district (in March 1828,) that sales of this description at the Sudder station used to be registered at the Police Thannah, but that he put a stop to this practice as countenancing such purchases.

In Sylhet, whenever cases of intended sale of free female children for the purpose of prostitution have been brought before the Magistrate, he has interfered to prevent the completion of the sale.

Appendix I. No. 5.

The Magistrate of Rungpore after observing, that the personal controul exercised by bawds over children they have bought from their parents, and trained up for prostitution, is not recognised by the Courts, adds, "Many cases have been brought to my notice of this nature, where the prostitutes have applied to this Court to get back the children who after purchase may have absconded. In such cases I have made over the children to their parents, and punished all parties that I considered deserving of it, though I am not aware of any Regulations sanctioning such proceedings."

In the statement of civil suits of the Behar district, already noticed, are two for the possession of slave girls purchased for prostitution, both of which were dismissed.

The Officiating Judge of Futtehpore mentions a case he had before him when Officiating Magistrate of Patna, in which he refused to restore to her mistress a young girl purchased by a procuress of the city from her parents, and brought up by her, he concludes, for prostitution, but who had run away in consequence of ill treatment, and permitted her to go where she pleased. "I might" he remarks, "have punished the procuress under the Regulations, had any one brought a complaint of her buying the child for so vile a purpose."

On a complaint to the Magistrate of Juanpore, ten years ago, by a dancing woman, that two girls had been sold by their father to her, the claim was disallowed, because the girls at the time of sale were of a marriageable age, and sold against their consent.

Do. II. No. 110.

Appendix II, No. 86.

At Banda (Southern Division Bundelcund) if a girl proved before the Magistrate, that she was forcibly detained for the purpose of prostitution, she was summarily declared free, and the persons claiming her referred for redress to the Civil Court.

The Officiating Magistrate of Suheswan mentions a case of the above description which was tried in that Court, in which a summary order was passed allowing the freedom of the complainant.

"The only cases," says the Magistrate of Moradabad, "which come before this Court, are those of slave girls bought and reared for prostitution. Whenever these seek for manumission and protection from the Court, the owners of them are warned, that unless the girls return of their own free will they have no power to make them, and should force be used they will be liable to punishment. The slave girls are also directed to leave all property of jewels, &c. for that must be considered the right of the master, howsoever acquired, up to the date of emancipation." "In these orders," he adds, "this Court has been guided by the Futwa of the Law Officers of the Nizamut Adawlut, communicated to the Bareilly Court of Circuit on the 26th June 1816, relative to the orders issued by the Magistrate of Furruckabad in the case of a female slave named Goonna." We shall presently have occasion to notice the case here alluded to more particularly.

DELHI TERRITORY.*

We have reserved this territory for separate mention on account of the peculiarity of its judicial practice as respects cases of slavery.

It appears from the Reports of the public officers that the right of a master over a slave or his property has not been acknowledged either in the Civil or Criminal Courts in this territory for a number of years.

"Since the promulgation in this territory," says the Commissioner, "of the law prohibiting slavery, we have not even recognised possession as a claim; and though I do not at this present moment recollect any instance of a male slave petitioning for emancipation, I have known very many applications from the unfortunate class of females purchased for the purpose of prostitution, and in every case the applicants were absolved from any further compulsory servitude, the mistress being referred to the Civil Court to obtain compensation for any expense incurred for food, clothing, jewels, &c."

The Judge writes, "In the Courts over which I have authority, it does not appear that during the last twenty-five years any case has been decided in which a slave was a party concerned. About the year 1811 some orders on the subject of slavery were issued by the then Chief Civil authority at Delhi; the precise nature of these orders I am now unable to state, a copy of them not being procurable, but I have reason to believe, that they went far to remove all invidious distinctions between master and slave, and that the Courts in the Delhi territory, which have probably been guided in their decisions by the orders in question, have not for many years,

* This territory is superintended by a Commissioner, and the Civil Judge's Court is held at Delhi. It is divided into five Police districts, over four of which are placed Magistrates, and over the fifth a Joint Magistrate; viz.—Central Division—Southern or Goorgong ditto—Rohtuk ditto—Northern or Paniput ditto,—and Western or Murriannah ditto.

so far as I am aware, recognised any right or immunity, beyond that of service, to attach to the one, which did not in an equal degree belong to the other."

The prohibitory Regulation alluded to in the two preceding extracts will be noticed hereafter. As a necessary consequence of the non-recognition of the rights of the master, it is the practice of the Criminal Courts to make no distinction between complaints by an alleged slave against his master or other person for cruelty, oppression, or ill treatment, and those of a free servant or any other person; deeming the supposed relation no ground either of justification, or mitigation of punishment.

CENTRE DIVISION.—It is stated by the Magistrate of the Centre Division, that sixty-three cases had been instituted in his office since 1820 by male and female slaves, particularly the latter, against their masters for ill treatment, and that in accordance with the prayer of their petitions they had all been emancipated.

The Officiating Magistrate of Paniput mentions two cases which he tried whilst Assistant at Delhi. In one, a case of "brutal ill treatment," in which the master pleaded ownership, he bound the master down to keep the peace, though the injured man declined to prosecute. In the other he adjudged arrears of wages to a khidmutgar against a Nawaub, though the defendant proved the complainant was his slave, born in his house;—setting aside the defence on the ground, that he could not, under any Regulation, recognise the relation of master and slave.

We find it stated in the report of the Judge of Bundelcund, that formerly cases of slave girls escaping from the palace at Delhi were always referred to the Criminal Court, and on the establishment of the claim the fugitive used, the writer believes, to be restored; "But," he adds, "for some time past this has been discontinued, and no claim of this description is recognized, nor any right of restraint over the person of any individual, on the plea of ownership, male or female, admitted. The latter, consequently, in criminal matters, enjoy all the privileges of other members of the community." This account of the present practice is confirmed by the Officiating Magistrate of Paniput, who mentions, that whilst holding the office of Assistant at Delhi, he had frequently seen cases of women, who had escaped out of the palace, coming to the Court for protection, which was invariably afforded them, and that he believes there was an order to this effect consequent on a reference to Government. The reference here alluded to respected the case of two slave girls, belonging to one of the Princes, who escaped from the palace in 1828, and were eventually emancipated by order of Government, notwithstanding the remonstrances of the King of Delhi. It is mentioned by the Commissioner, and will be found fully detailed in the volume of papers relating to Slavery in India, printed in 1838.

Appendix II. No. 100.

Pages 1, 2, 37-42.

SOUTHERN DIVISION.—The Magistrate of the Southern or Gorgong Division, after stating that it has been the practice of his Court to recognise no right of one man over another, except in the relation of master and servant, proceeds; "I have myself invariably considered, that the object and intent of the different Regulations enacted regarding the importation and selling of slaves, were the gradual abolition of slavery throughout the Company's territories, allowing at the same time all persons, who had slaves in their possession at the time of the annexation of territory, to keep them unmolested; and I should consider myself bound to declare any young person free, who should complain in the Magistrates' Court, on the grounds that who-

ever would prove his right of possession, must necessarily render himself either liable to be punished for importing or buying the slave, premising that no person can be a slave by birth."

In case of complaint of ill treatment, unless the usage complained of were decidedly beyond a moderate correction, this officer would dismiss it, "on the ground that as long as the man or woman chose to remain as a slave in the house of its master, it had thereby voluntarily subjected itself to correction at its master's direction."

"Slaves escaping from foreign territories," he says, "have invariably been declared free, and no claim on them has been considered valid, whether it be a Hindoo over a Hindoo, a Mussulman over a Mussulman, or Hindoo over a Mussulman, or vice versâ; and several cases of this nature have been thus decided."

He furnishes a statement of seven cases disposed of by the Magistrate in the years 1828 to 1835, both inclusive, as being all that came under cognizance within that period.—Four were complaints of ill treatment, and two applications to be made free, one of them in consequence of ill treatment. In all six both parties were females, and the order passed in each was, that "the plaintiff was made free;" but in one only is the reason of the order mentioned, viz. "the plaintiff not being purchased by the defendant." The remaining case was a charge of escaping with jewels, the substance of the order is stated to be, "the plaintiff having denied that she (the defendant) was not a slave, therefore she was made free."

ROHTUK DIVISION.—No cases relating to slavery appear to have been brought before the Court of the Joint Magistrate of this Division.

NORTHERN DIVISION.—The Officiating Magistrate of Paniput, after stating his opinion, that a master possesses no legal right over a slave or his property, and that he considers a slave to possess equal rights, and to be perfectly on the same footing as a menial servant, proceeds; "I am not aware of any law or Regulation specifically affording redress to a slave, as distinguished from a free man, nor do I deem any necessary. It would be sufficient for me that no Regulation recognises the right of a master over a slave, and that such a claim is contrary to every principle of our Regulations. It would therefore, in my opinion, require no specific Regulation to give a slave redress; but I should require the master to point out a specific law, before I would consider any one his slave." "Regulation X. 1811, declares the importation of slaves illegal. Its preamble says, that "the importation and traffic in slaves is inconsistent with humanity, and the principles by which the administration of the country is conducted." If importation, if traffic, is illegal and punishable, I do not think it a very forced construction to conclude, that the possessing one is equally unlawful by this Regulation, independent of common principles of equity. The slave, therefore, is entitled to, and would receive from me, redress for any injury, no matter from whom received." "Regulation III. 1832, in declaring free all slaves imported into the British territory subsequent to the year 1811, being a period of no less than 25 years, would certainly be decisive against the claims of masters in the greater number of cases." "Few cases of slavery," he observes, "ever occur in these districts."

WESTERN DIVISION.—There are no cases on record in the office of the Magistrate of this Division.

The Officiating Magistrate says, "The people are conscious that this relation (of master and slave) is not admitted by our Courts; where, therefore, slavery does exist, it is in so limited a sense, that the slave would be more properly termed a household servant, who receives from his master food and clothing, instead of wages. The relation of master and slave has, indeed, never been acknowledged by this Court; and this principle has been carried so far, that the claims of subjects of the adjoining Sikh states, who have occasionally applied for the restoration of slaves escaped from them into the British territory, have been similarly rejected, it being held, that though in servitude before, these became enfranchised by a residence in the British territory." "I must state my opinion, that no distinction of free man or slave has ever or would now be allowed by the practice of this Court, nor have any special rights arising from either relation ever been upheld or acknowledged. In coming to this opinion, I have been guided by my own experience in the Division, by the common understanding of the people at large on the subject, as well as by the judgment and experience of the Native Sudder Ameen (a Mussulman,) long a resident in this zillah."

We shall conclude this subject with an extract from the answer of the Officiating Judge of Cawnpore. "My experience since 1833 has been wholly confined to the Delhi territory, where for a long time the name of slavery only has existed. Its reality has been long extinct. This is a most important fact, as proving that the abolition of slavery may be easily accomplished if desirable. Having been, before my appointment to Delhi, for eight years in South Behar, where I have myself, as Register and Civil Judge, daily decided cases of purchase of whole families of predial slaves or Kahars, I was astonished to find that slavery was not recognised at Delhi. I was informed on enquiry, that since Mr. Seton's time, no claim to a slave, or to compel slaves to work, have been allowed; and I found the established practice of the Court, that whenever a person petitioned that another person had claimed him or her as a slave, an *Azadnamah* or certificate of freedom was given him or her, to the effect that they were free. I gladly hailed this custom; but I pursued another course which I deemed more effectual. It struck me that the issuing these *Azadnamahs* or certificates was, to a certain extent, allowing the existence of slavery in some sort or other. When similar applications were made to me, I used merely to pass an order, that slavery did not exist, and informed the petitioner, that if any person molested him or her, he should be punished."

Appendix II. No. 106.

From the foregoing analysis of the Returns of the Judicial Officers it will be seen how great a variety of practice and opinion exists in regard to the adjudication of cases, whether in the Civil or Criminal Courts of the Interior, in which the question of slavery is involved, and the laws and principles by which the decisions in such cases should be regulated: and this variety is observable, not only as respects different and distant parts of the country, but neighbouring districts, and sometimes different divisions of the same district, and even at different times in the same Court. Whilst some officers admit the legality of the status of slavery, and the rights and obligations arising out of it, others altogether reject it.* Of those who recognise it,

* See also Mr. Ricketts' evidence, Appendix I. No. 8.

some would confine its existence within the bounds prescribed by the Mahomedan and Hindoo laws, others would extend it over the wider field of custom and usage; as Magistrates, some would render assistance to the master to recover his fugitive slave, others would abstain from any interference; some would permit to the master the right of moderate correction, others would not countenance the exercise of such authority. There are also gradations of opinion between these extreme points. It is not surprising that in the more ambiguous cases of claims to the person and service of slaves wherein both parties are not Hindoos or Mussulmans the same diversity and contrariety of sentiments should be found to prevail.

The defective state of the law, and the want of clear rules to guide the Courts and Magistrates on the subject of slavery, have been noticed in several of the Returns. We select the following passages.

Appendix II. No. 75.

The Judge of Patna, speaking of the proceedings of the Courts in the district of Behar, says, "nothing could have been more loose or uncertain than the practice in regard to rights claimed or exercised over slaves. I have never been able to trace the rules that were recognised and acted upon to any principles of law, whether Mahomedan or Hindoo. Local prescriptive usage, modified and limited by occasional edicts issued by the Civil Authorities to guard against particular abuses, seems to have been the only law to which either party, whether master or slave, looked up."

Ditto, No. 86.

The Judge of Goruckpore states, whilst Commissioner of the Sarun Division; "I perused several cases sent to me by the Judge of Sarun, chiefly investigated by the Sudder Ameens and Moonsiffs, and the decisions appeared to me all to depend upon the presiding authorities ideas of equity, without reference to law."

Ditto, No. 101.

The Acting Magistrate of Banda.—"There is a general want of legal information and established course of proceeding in almost every office, entailing a proportionate degree of uncertainty in the decisions of the Magisterial authorities on cases of the above nature coming before them for adjudication; and it would, therefore, be impossible to lay down any clear and determined rules of guidance as those practically recognized by the Company's Courts, every Magistrate being, I believe, in the habit of using his own discretion, subject to the dictates of reason, justice, and humanity. These decisions are doubtless in many instances repugnant to Mahomedan law."

Ditto, No. 120.

The Magistrate of Bareilly.—"In the present state of the law, so much doubt exists in regard to the whole subject, that each Magistrate must, in fact, act according to his own views and judgment; and in this way doubtless, much difference of proceeding will be found to exist in the different Courts."

Ditto, No. 3.

Mr. Robertson, then one of the Judges of the Presidency Sudder Court, in a separate minute observes on this subject, "With regard to the internal system of domestic servitude which obtains in India, as in every other part of Asia, no specific rules having ever been laid down, it has been hitherto left to the discretion of every judicial functionary to dispose of such cases as might be brought before him according to his own judgment, taking the Mahomedan and Hindoo laws on some occasions, but more generally the habits and feelings of the people, with his own sense of right, for his guides." This observation is quoted by the Calcutta Sudder Court in their letter to the Commission.

Ditto, No. 2.

DECISIONS OF THE COURTS OF SUDDER DEWANNY AND NIZAMUT ADAWLUT.

We shall now state what we can discover to have been determined by the Courts of Sudder Dewanny and Nizamut Adawlut, in respect of the laws, principles and rules, by which the Courts and Magistrates should regulate their proceedings in cases relating to slavery, and in respect of what does or does not constitute the legal status known by that name. And first with regard to the civil branch of judicature.

No mention is made in the Regulations of claims to the person and service of individuals as slaves, but on an application from the Judge of zillah Chittagong, dated the 15th March 1798, to be furnished with information by what rules, if slavery was allowed, he was to be guided "in determining the circumstances, periods, and authentications of cabalas* and engagements, which are to be considered as constitutive of slavery, in that portion of the British dominions in India; and further, whether the child of a slave is the property of the owner of the slave," the Court of Sudder Dewanny Adawlut, (proceedings 29th March 1798,) observed, that they had "no doubt that the spirit of Section 15, Regulation IV. 1793, (which directs that "in suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the Judges are to form their decisions,") should be applied to the cases of slavery noticed in the above (Judge's) letter, but as these cases are not expressly within the descriptions of suits specified in the above Section," they resolved to refer the question for the orders of Government. On the 6th April the Government communicated their entire concurrence in the opinion of the Court, and requested them to furnish the Judge of Chittagong with the necessary explanation for his guidance. This resolution, however, was not circulated to the other Mofussil Courts for their information.

Slavery in India, 1828, p. 74-5.

By Section 8, Regulation VII. 1832, the rule contained in the above quoted Section 15, Regulation IV. 1793, and the corresponding enactment contained in Clause 1, Section 16, Regulation III. 1803, were made "the rule of guidance in all suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions that may arise between persons professing the Hindoo and Mahomedan persuasions respectively." But by the 9th Section of the same Regulation, it is declared, that the above rules are to apply "to such persons only as shall be bonâ fide professors of those religions at the time of the application of the law to the case, and that they were designed for the protection of the rights of such persons, not for the deprivation of the rights of others. Whenever, therefore, (the Section proceeds) in any civil suit, the parties to such suit may be of different persuasions, when one party shall be of the Hindoo, and the other of the Mahomedan persuasion, or where one or more of the parties to the suit shall not be either of the Hindoo or Mahomedan persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases, the decision shall be govern-

ed by the principles of justice, equity and good conscience ; it being clearly understood, however, that this provision shall not be considered as justifying the introduction of the English, or any foreign law, or the application to such cases of any rules not sanctioned those principles."

Appendix, Hl. No. 1.

In the case of Mussummaut Chutroo, appellant, versus Mussummaut Jussa, respondent, both of the Mahomedan persuasion, in which the respondent, a prostitute, had, in the city Court of Benares, sued the appellant, whom she had brought up from childhood and educated to the same profession, for the recovery of a sum of money on account of a monthly allowance due under a written engagement, it was, on a special appeal, decided by the Sudder Dewanny Adawlut, on the 25th March 1822, in conformity with two Futwahs of the Law Officers of the Court, "that unless Chutroo was the lawful slave of Jussa, she (Jussa) had no right to exercise any controul over her, or to cause her to do any act contrary to her wishes or inclination ; —that in this case there was no proof that Chutroo was the legal slave of Jussa, —and that it is incumbent on the judicial authorities to abstain, without the fullest proof of free will, from countenancing the servitude of any individual entitled to freedom,—and that even if the execution of the deed were proved" (which it was not)" to have been by the consent of the girl (the appellant), it was nevertheless a nude pact, and a contract which did not promise her any equivalent ; in other words, an undertaking to pay a sum of money in consideration of being exempted from a controul to which the contracting party was not legally subject."

Ditto, No. 2.

In the case of Shekh Khawaj and others, appellants, versus Muhammad Sabir, respondent, in which the respondent had instituted a suit in the zillah Court of Dacca Jalalpore, to establish his property in, and recover the services of seven persons, male and female, of the Muslim creed, as his hereditary slaves, and in which the defendants admitted that they and their ancestors had rendered services of slaves in the family of the respondent, and of one of the appellants, but pleaded that the exaction of such services was illegal under the Muslim law ; it was determined by the Court, on a special appeal, on the 28th August 1830, that with reference to the doctrines contained in the Futwa of the Mufis of the Court, delivered in 1809,* to the effect, that—Freedom is the natural state of man ; and legal servitude only arises,—from infidelity and captivity in open war with a Muslim conqueror,—or from descent from such infidel captive—consequently, the sale in a state of destitution of a child, or of the vendor's own person, establishes no right of property in,—or dominion over,—the object of the sale,—the essentials, constituting legal servitude, and giving the respondent a legal dominion over the persons claimed as slaves—were wanting."—The claim was therefore disallowed.

The following is an extract from a Futwa of the Mahomedan law officers of the Sudder Court in the case of Gholam Husun Ali, appellant, versus Zcinub Beebee (on the part of her son Himmut Ali, a minor), respondent, decided on the 20th July 1801. "The marriage of a Mahomedan with his slave girl is ineffectual and not binding : for lawful enjoyment, such as is obtained in marriage, accrues equally from

Sudder Dewanny Reports vol. I. p. 50.

* On occasion of a reference from Mr. J. Richardson, Judge and Magistrate of Bundelcund.—See Slavery in India, 1828, p. 304-6.

the embrace of a slave girl. Modern lawyers have, on prudential grounds, held marriage with slave girls to be advisable ; because a slave girl, in the legal acceptation, should be one taken from foreign infidels, or the offspring of such a one. With respect to ostensible slave girls, bought, in times of scarcity, at a low price, from Mahomedans or infidel subjects, and kept for concubinage, there is a doubt as to the legality of their embrace ; wherefore marriage with them, to ensure the lawfulness of it, has been held preferable. Though there should be proof to the marriage of Jafur Ali with his four slave girls ; his marriage with them, if they be really slave girls, is not binding or valid. Therefore his marriage afterwards with a free-woman, would, in fact, not be a fifth marriage : and this marriage, notwithstanding the other four women be alive, will be valid and legal. Supposing, however, that the four girls were not legally slave girls, but only commonly so reputed, then the marriage with them would be valid ; and the marriage with the free woman, being a fifth marriage, not valid."

In the case of Khairat Ali and Musst. Aminah, appellants, versus Zahuran Nissa, respondent, decided by the Sudder Court on the 15th March 1830, is recorded a Futwa of the Kazi of the Provincial Court at Patna, in which it is declared, that a formal deed assigning the person, labour and future offspring of Zahuran for a term of fifty-five lunar years " did not legally operate as a sale,—being in fact a limited assignment in the way of hire, creating no proprietary dominion. It is true, (the Futwa proceeds) that conveyances of slaves are ordinarily made in this form ; but in law, the contracts of sale and hire are nominally and essentially distinct ; and custom cannot prevail over law."

Sudder Dewanny Reports, vol. 5, p. 18.

In September 1826, Golak Narayan Ray, sued Kewal Ram Deo and sixteen others in the Civil Court of Dacca, to recover his dominion over them as his hereditary slaves, alleging that they and their ancestors had served him and his ancestors for generations, being supported by lands assigned. The defendants, denying their servitude, asserted, that the lands stated by the plaintiff to have been assigned for their support, were their own ancestral talook, acquired by the father of certain of them ; that the profession of the family being service, the person so acquiring the lands had entered the plaintiff's employment as a writer ; and that since his death they had continued to pay the fixed rent of the talook to the plaintiff, in whose estate it was situated. The plaintiff produced a written agreement dated in 1790, purporting to have been executed by three ancestors of the defendants and authenticated by the Collector at the time ; and likewise a perwanah of the Collector dated the same year. The defendants also produced documents.

Appendix III. No. 3.

The Acting Judge, on the 23d May 1828, decided in favor of the plaintiff on the following grounds. 1.—That the facts alleged by the plaintiff were borne out by the evidence, especially by the written agreement, from which it appeared that the talook had been purchased by the plaintiff's grandfather in the names of the three ancestors of defendants as his slaves, and that the annual rent had been fixed at 370 rupees 2 annas, after deducting 9 rupees from the assets as their subsistence, and the talook made over to their charge ; the deed containing a clause that they and their descendants would continue to render the service of slaves, in default of which plaintiff might resume the lands, and further that they should be subject to the local usage in regard to sale. 2.—That the cognomen of Sakdar,

which the defendants say was an official title obtained by their ancestors, was proved by their own witnesses to be an appellation common to slaves in the pergunnah, and was therefore presumptive of the servile condition of the defendants, and that their relationship and connexion by marriage with slaves were proved.

On appeal to the Provincial Court, one Judge proposed to reverse the decree, deeming the plaint fraudulent and malicious ; because, 1.—The plaintiff had filed no deed signed by the defendants or their ancestors stating themselves to be hereditary slaves of his family ; and without such a deed and full proof, it would be iniquitable to condemn a mass of persons and their descendants to perpetual bondage. 2.—The deed of acknowledgment was suspicious, it not appearing why it was authenticated by the Collector, and the plaintiff and attesting witnesses not having been summoned to prove it ; if genuine it would have been mentioned in the plaint, and produced in a previous investigation which had taken place before the Magistrate. 3.—The plaintiff's witnesses, though they speak generally to the defendants being his hereditary slaves and serving him as such, entered into no details, shewing when and what services were rendered to his family, and by whom. 4.—From the papers filed by the defendants it appeared they were talookdars on the plaintiff's estate, paying an annual rent of Rs. 358, and 9 annas ; that they followed the profession of writers, and were persons of respectability.

Another Judge proposed to confirm the decree, deeming the oral and documentary evidence on the part of the plaintiff, especially the written agreement, given at a time when many other talookdars sought separation from the estate of the plaintiff, to be conclusive of the slavery of the defendants, and that the talook was really the property of the plaintiff. He observed, that from the evidence for the defence it appeared that Sakdar was an appellation common to slaves in the pergunnah ; that the slavery of a family may be inferred from continuous service ; that it seldom happened that after the lapse of many years the original title, shewing the acquisition of the slave forefather, was forthcoming ; and that in that part of the country many slaves were apparently persons of respectability, and educated, and managed the zemindarce affairs of their masters. A Judge of the Moorsshedabad Court of Appeal, to whom the case was referred, concurring in the latter opinion, judgment was given accordingly on the 20th April 1830.

A special appeal was admitted by the Sudder Dewanny Adawlut on the ground, that “ the lower Court had passed judgment against appellants (defendants) without considering whether their ancestors had legally as slaves, come under the dominion of respondent's (plaintiff's) father.” On the 26th March 1832, one of the Judges concurred in the judgment proposed by the Judge of the Dacca Provincial Court who first heard the appeal, and in the grounds of it. The case being brought before another Judge, he observed, “ In my opinion the claim of the plaintiff is not established by his witnesses or documents. The witnesses say, that they had seen defendants render service like the service of slaves in the house of plaintiff. But this does not prove that they are really slaves. Moreover, if the genuineness of the engagement be conceded, still it is apparent from it that the defendants are dependant talookdars holding on condition of paying a fixed rent and rendering service. If then the appellants should not render service, respondent may resume. From this it seems, that during the tenure of the talook, service is obligatory, not after

abandoning the tenure, and thereby discharging themselves : and it is to be observed, that he who has power to emancipate himself cannot be considered a slave." A final judgment was therefore given for the appellants on 5th May 1832.

The Judge of Mymensing gives the following account of a class of cases common in his district.—“ Another practice prevailed in the zillah of claiming a right of slavery over the descendants of persons who had in the first instance, on receiving a small portion of land, bound themselves down as bondsmen or slaves to the proprietor of the soil in a *menial* capacity, or probably as mere cultivators of the land lying waste, the land *then* given in perpetuity being equivalent to such service. In these cases, the original agreement between the parties (if drawn out in writing) was never produced, and it appeared to me so unjust to allow or recognise such a demand or claim of slavery against the descendants, (and who in many instances did not reside on the ground thus allotted, or if they did, could never subsist on the mere pittance of land granted to their ancestor,) that I dismissed all these claims ; and one having been affirmed in appeal by the Sudder Dewanny Adawlut,* this is now adopted as a precedent, and no suits of this description are now instituted, though before they formed at least one third of the slavery causes on the file.”

Appendix II, No. 47.

* Kishen Chunder Dul Chowdry, appellant, versus Birbul Bhundari and others, respondents, decided 24th Nov. 1834.

The above case was shortly this : A claimed, as his hereditary slaves, B and others, alleging that their forefather C had been a slave of his family, and that C and his descendants, including B and other defendants, had continually rendered service, and received support, lodging, and a small assignment of land on his estate. B denied the plaintiff's claim in toto. A could produce no deed to prove the hereditary servitude of the defendants, and the Judge held, that it would be “ inequitable, even though such had been the usage, that the descendants, to the lowest generation for ever, should be subject to slavery to plaintiff, because his ancestor may have given two or three beegahs to their remote forefather.”

Appendix III, No. 4.

The judgment of the Sudder Court, which was substantially the same as that of the zillah Judge, was as follows.—“ Appellant has produced no deed shewing that respondents were his hereditary slaves. What avails his mere assertion that his ancestor assigned the nankar land to the ancestor of defendant in consideration of service and attendance ? But let it be assumed that he did so. For two or three beegahs as nankar or chakran to the ancestor of respondents, it would be most inequitable that the descendants of the receiver should for ever be slaves to the descendants of the granter. Could appellant supply the deficient deed it would not avail.”

A case is also mentioned by the Judge of Mymensing, which arose in the Dacca jurisdiction, and being brought by special appeal before the Sudder Dewanny Adawlut was decided on the 7th December 1835 ; viz. Kirti Narayan Doo and others, appellants, versus Gauri Sankar Roy, respondent.—This case was first decided in favor of the plaintiff (respondent) by the Principal Sudder Ameen, and the decision was confirmed, with a slight modification, by the zillah Judge in these terms :—“ Neither from the deed of partition, nor any other document, do I find that the ancestor of appellant rendered service to respondent as a slave. Nevertheless appellant, in his answer before the Magistrate, and his brother Sri Narayan, in his deposition before the Moonsiff, admitted that they were the Bhandaris or slaves of respondent and his brother. His denial now, therefore, can avail nothing against his

Appendix III, No. 6.

own admission." "With reference to the premises I infer, that appellant and his ancestor, on receiving lands for support, rendered service to respondent, and his ancestor. If respondent should not allow nankar lands for support of appellant and family free of rent and charge, then they will become exempt from their servitude, and may seek their support where they can get it."

The judgment of the Sudder Court, reversing the decisions of the lower Courts, was passed on the following grounds :—"Plaintiff has produced no deed to prove the assertion that appellants are his hereditary slaves. Plaintiff alleges that the appellants rendered service in consideration of house and lands for support allowed them. The defendants strongly deny this. No proof of their holding such house and lands is found in the papers of the case. Moreover were it so, still when appellants have quitted, they cease to be liable to any claim of servitude. For the statement of respondent himself proves that appellant rendered service on receiving subsistence or nankar. It thus would seem that appellants are '*Bhakta Dasa*,' or slaves for their food, who render service for food. On reference to Mr. Macnaghten's compilation on Hindu law, and the 2d volume of the Digest, p. 247, the condition of slaves is stated thus, that when the slave for his food abandons the service, he becomes free. Therefore, the appellants having given up subsistence they are to be considered free. Several witnesses have deposed according to the purpose of respondent; but they are his servants, kinsmen and dependants. Their testimony, therefore, is not to be believed. But if credited, their evidence does not avail the case of plaintiff: because appellants are to be considered as having become free by relinquishment of support. The copy of Kirti Narayan's examination before the Magistrate is of no advantage to respondent; for a statement before the Magistrate cannot be a proof in a civil case."

Appendix III. No. 7.

The following case was also decided by the Court of Sudder Dewanny Adawlut in special appeal, on the 24th February 1836. Nair, Alias Narayan Singh, pauper, appellant, versus Ramnath Sarma and others, respondents. The respondents sued in the zillah Court of Sylhet, to recover the services of the appellant, his stepmother, and his wife and children, as slaves; alleging that the persons from whom they derived their title had purchased A, the grandmother, and B her son, the father of appellant, from their former master, on which occasion he had executed a deed of release as respected their service to him, and A had executed to the purchasers a deed of hire, binding herself and her son B, then a minor, to serve the purchasers for sixty and seventy years. The defendant denied the servitude of his father, himself and family.

The zillah Judge dismissed the claim, on the grounds, that the action had been brought after the expiration of the longest term specified in the deed executed by A; that the deed, making no mention of the wife and issue of B, did not support the plaintiff's claim; and that there was no averment of the origin of the alleged slavery of the appellant's wife.

On appeal to the Officiating Commissioner of Assam, that officer reversed the decision of the Zillah Court; for the reasons, that he considered the limitation of time as being merely in conformity with custom, and to ensure the exemption from labor in old age, not freedom; that the defendant was born within the period of the term; and that the omitted mention of the issue of hired slaves in relation to the hirer, is no argument of the freedom of their issue.

On special appeal to the Sudder Court, the judgment of the Officiating Commissioner was reversed, and that of the zillah Judge confirmed; the grounds of this decision were as follows:—The proofs adduced by the plaintiff are not sufficiently satisfactory to induce the Court to adjudge the claimed slaves with their issue to perpetual slavery. “The witnesses depose generally to this, that they presumed the defendants to be slaves from services performed. But services are of various sorts; nor is every servant a slave. The deed of hire wants authentication. Moreover, a term is limited therein, and the object of such limitation is, that the performance of the condition be limited to the duration of the term. The witnesses assert usage to be this, that the person who is the object of the contract of hire does not become free at the expiration of the period. But such loose and vague assertion is entitled to no weight. Respondents allege the rent-free occupancy by defendants of land and dwelling as proof of slavery; but the witnesses depose to the contrary.”

The last case we shall give is that of Loknath Datt and Jainath Datt, heirs of Lakhinarayan Datt, versus Kubir Bhandari and his two sons and daughter; decided by the Court of Sudder Dewanny Adawlut on the 17th May 1836. This suit was instituted by Lakhinarayan in the Zillah Court of Mymensing on the 23d March 1830, to recover his dominion over the defendants, as being the descendants of a hereditary slave of his family, and having rendered to him the services of slaves, holding of him land and a house for their support. Kubir denied his slavery, and alleged that whilst he resided in the plaintiff's village, the latter allowed him the use of some land in lieu of wages, for which he occasionally served him, but not as a slave, and that for the twelve or thirteen years preceding the suit he had lived in another village as a free ryot. In reply the plaintiff averred, that the father of Kubir had, with another hereditary slave, fallen to the share of the plaintiff's father on a partition of the family property; that Kubir, owing to deficient accommodation in his original house, resided at another village, but continued to hold the land and house assigned him by the plaintiff, and to render him service until he proved recusant; that he had married his sister and daughter, and other females of his family, on discharge obtained from the plaintiff, to whom he made the established present; and that his own (Kubir's) marriage, and that of his sons, were effected at plaintiff's cost; also that some of the descendants of the same slave stock, who fell to the share of the plaintiff's two uncles, likewise fled, but had since been recovered by judgment of Court, and one by voluntary surrender.

Appendix III. No. 8.

On the 27th August 1833, the Principal Sudder Ameen, to whom the case had been referred, passed judgment in favor of the plaintiff, observing, that the defendant had not supported his defence by any proof, whilst the plaintiff had established his pleas both by oral and documentary proof, Kubir having, in an examination before the Magistrate on a charge preferred by himself against certain persons, stated, that the plaintiff's cousins were his masters.

In appeal the zillah Judge reversed the Principal Sudder Ameen's decision for the following reasons. “Plaintiff's action is estimated in the amount of loss for services withheld. It is not admissible, because not brought within one year from the absence of the defendant. Plaintiff files no deed proving the servile state of the defendant. His witnesses, who allege that defendant rendered service to plain-

tiff and held of him lands for support, depose on hearsay. Moreover it is not equitable that a family in perpetual descent should be slaves in consideration of the nankar lands for support."

Application being made to the Court of Sudder Dewanny Adawlut for the admission of a special appeal, the petition, accompanied with the decrees of the lower Courts, was referred to the Pundit of the Court, with directions "to state whether proofs, such as those recited in the decree of the Principal Sudder Ameen, if adduced by plaintiff, would be sufficient legal evidence, under the Hindu law, to establish the slavery of defendant." The Pundit's reply was to this effect. "The proof adduced by the plaintiff to establish the fact of slavery, as set forth in the decision of the Principal Sudder Ameen, is sufficient. For it seems that the defendants are inherited slaves, and this is one of the fifteen legal classes of slaves." In support of this opinion the Pundit cited the text of Narada, cited in various books, in which the "slave inherited" is enumerated. On a consideration of this reply the accuracy of the judgment of the zillah Judge seeming doubtful, a special appeal was admitted on the 4th March 1834.

The case was finally disposed of on the 17th May 1836, by one of the Judges, who gave judgment in the following terms. "I find that the testimony of appellant's witnesses examined to prove respondents, slavery rests on hearsay, which therefore is insufficient. Plaintiff's claim is this, that defendants are slaves in consideration of lodging and lands for support. Now if they received the same, it is clear they have abandoned such lodging and support. In the case No. 120 of 1833,* on the 7th December 1835, I passed a decree in concurrence with the opinion of Mr. R. H. Rattray. In conformity to that precedent, respondents are slaves of the class of slaves for their food. On surrender of the lands held they are entitled to emancipation. The zillah Judge has ruled that the claim is not cognizable, because not brought within a year. In this I do not concur. I suppose he rests his doctrine on Section 7, Regulation II. 1805, which is irrelevant."

* *Kirit Narayan v. Gouri Sahaib*, vide supra.

It will be observed that in the five cases last stated both parties were Hindus, and it appears from a report of the Sheristahdar of the Presidency Sudder Court, filed in the case of Loknath Datt v. Kubir Bhandari, that "there has not been any appeal in which the claim of a plaintiff to establish his dominion over a slave has been sustained in this Court."

Though we cannot discover that the point has ever been settled by a judgment of the Sudder Court, it appears to be clear by Hindu law, that the species of slave called *Atmabikrya* or one self-sold, "signifying him who for a pecuniary consideration barter his own freedom," must be considered to be in a state of permanent slavery, which will likewise be the condition of his offspring; but whether the most prolific source of slavery now in operation, viz. the sale of children by their parents, generates legal slavery; in other words, whether parents have by the Hindu law the right, under any circumstances, of selling their offspring as slaves; and whether, if not specifically authorized by that law, such right would nevertheless be held legalized by usage, so far as Hindus are concerned, are questions which, we believe, have never been brought judicially before the Sudder Courts, nor clearly expounded in any book of Hindu law. We thought it right to procure the opinion

of the Hindu Law Officer of the Calcutta Court of Sudder Dewanny Adawlut on this subject. The questions proposed to him and his replies will be found in Appendix VIII. From these it would appear, that by the *written law* a father has no right to sell a son or daughter as a slave even in time of calamity, without the consent of such son or daughter, but that such consent being obtained, he may so dispose of them, both in time of calamity and at other times ; and that by *usage* he is competent so to sell a son or daughter, incapable by reason of non-age of giving consent, with a view to obviate calamity. That such power of sale in no case extends to persons of the Brahmin caste. That a mother, either during the life or after the death of the father, may, in pursuance of an order from him, or if he is living, in the absence of any opposition on his part, from which his assent is inferible, sell a son or daughter into slavery to obviate calamity, the consent of such son or daughter being first obtained ; but not otherwise. That in default of father or mother, no near kinsman or guardian possesses the power of sale.

No. 3.

Our Secretary gives the result of his investigation into the Hindu law on this subject, in the following words. " On the whole it appears to me that it would be difficult on direct scriptural authority to establish the legal right of the parents to sell their children into slavery under any circumstances. That power, exercised as it always has been by particular classes, seems to me to rest rather on popular recognition and usage, and is subject to those limits and restraints which varying local institutions may impose."

Appendix VIII. No. 1.

The following points of civil practice have been determined by the Sudder Courts.

Slaves must be regarded as personal property, and suits respecting them are cognizable by the native judges ; but the Court consider it highly inexpedient that such cases should go before a native, should the reference of them to a European judge be practicable.

Construction, No. 1022
July 29, 1836.

A person adjudged to be the slave of another is entitled to appeal against the decision in formâ pauperis.

Do. No. 1009, June 24,
1836.

A decree having been passed against certain persons under which they have been declared, with their families, the slaves, and as such the property of the decree-holder, was affirmed in the Provincial Court ; but a special appeal was admitted by the Sudder Dewanny Adawlut on the grounds of the appellants (the slaves under the judgments already given) not appearing to be so under what, by the Mahomedan law, is required to constitute slavery. The appellants did not give security to stay the execution of the decree, for which the decree-holder had made application. Under these circumstances it became a question whether execution should be ordered, or if stayed, upon what terms. The Court were of opinion, that as the special appeal was admitted on the presumption that the appellants had been wrongfully declared to be slaves, and as they would be unable to prosecute their appeal if delivered over to the custody of the decree-holder as slaves, the execution of the decree should, in this special instance, be stayed without demanding security from the appellants. Case of Shekh Khawaj and others, appellants, versus Muhammad Sabir, respondent.

Do. No. 350, May 7,
1836.

Appendix III. No. 2.

Appendix III. No. 3.

Following the above precedent, a like order was passed on the admission of the special appeal in the case of Kewal Ram Deo, appellant, versus Golak Narayan Ray, respondent.

Construction. No. 812,
Aug. 16, 1833.

We may here also notice a reference to the Court of Sudder Dewanny Adawlut, on the subject of registering contracts of slavery in the office of the Register of Deeds, in zillah Tirhoot, which was made by the Officiating Commissioner of Circuit for the Division on the 24th July, 1833, in the following terms: "I deem it incumbent on me at the same time to notice a practice that prevails in Tirhoot, which I conceive to be infinitely more objectionable, and of the legality of which I am doubtful, viz. that of registering deeds called, or rather miscalled, *ijaranamahs*, in a separate book kept for the purpose. The nature of the deeds I cannot better explain than by the following quotation of the purport of the last deed registered. "Meer Muttooh, aged about 26, binds himself over for the period of 85 years, and his descendants for ever, for the sum of 18 rupees, to Omrao Sing, vakeel of the Civil Court at Tirhoot." In another, a person disposes of the services of his slave girl, and of her children for a term of 81 years, for the sum of 200 rupees; and the rest were generally of a similar purport. My object in now noticing these deeds, is to obtain the opinion of the Court of Sudder Dewanny Adawlut as to the legality of such transactions being registered under Regulation XX. of 1812, or any other law enacted for the guidance of the Register of Deeds." The Court determined, that as deeds of this description are not specified in Regulation XXXVI of 1793, or Regulation XX of 1812, the registry of them is illegal under the prohibition contained in Section 7, of the Regulation last quoted.

The only specific enactments for the guidance of the Criminal Courts in cases connected with slavery, besides Regulations X. 1811 and III. 1832, relating to the importation and removal of slaves for purposes of traffic, are contained in Section 2, Regulation IV. 1797, and Sections 2 and 4, Regulation VIII. 1799, and the corresponding provisions in Clause 2, Section 15, Regulation VII. 1803, and Sections 15 and 17, Regulation VIII. 1803, which annul the exemption from Kissas or Retaliation sanctioned by the Mahomedan law in certain cases of wilful murder of a slave.*

Slavery in India 1828,
p. 371.

In 1820 a Brahmin was tried by the Court of Circuit of the Bareilly Division for killing his female slave, by cutting her down with his sword, because she was in the habit of quitting his house without his permission; and being convicted of the crime, was condemned and executed.

Nizamut Adawlut Re-
ports, vol. III. p. 140.
1828.

In the case of Barong and Thokol, the prisoners, a Garrow Chief and his bondsmen, being convicted of putting to death another of his bondsmen, were sentenced to two years imprisonment, with reference to all the circumstances of the transaction, to the barbarous state of the country, the provocation given by the deceased, the authority theretofore exercised by the family of Thokol, and the subjection to him as his bondsman of Barong.

* On a reference from the Magistrate of zillah Behar as to the admissibility of claims to the persons of individuals as slaves, on the ground of purchase in infancy from the father of the person claimed, the Government, on the 21st October 1791, "Ordered the Magistrate be informed that he is to try all causes respecting slaves by the established laws of the country."—Supplement to Colebrooke's Digest of the Regulations, p. 473.

On the 27th April 1796, the following instructions were circulated by order of the Nizamut Adawlut to the Magistrates. Circular Orders of the Nizamut Adawlut No. 1. vol. 1.

"It having been represented to the Court of Nizamut Adawlut, that a practice has prevailed of purchasing young slaves for the purpose of making eunuchs of them, to be afterwards again disposed of by sale, the Court have thought it proper to ascertain from their law officers whether this inhuman practice were duly punishable by the Mahomedan law; and also whether, in any case, it would entitle the party injured to emancipation from slavery."

2. "By the answers of the law officers to the reference made to them on these heads, it appears, that the right of mastership over his slave, is not forfeited by making such slave an eunuch, either under the Mussulman or Hindoo law; but that the castration of any person, whether a slave or otherwise, is held criminal and punishable by the Mahomedan law, particularly if the offender be proved to have made it his professional or frequent practice; nor will the consent of the party be allowed to obviate the punishment; which, in all cases, is left to the discretion of the governor of the country, or his representative, and to be proportioned to the magnitude of the offence."

3. "With a view to discourage and prevent, as much as possible, the cruel and detestable practice above adverted to, the Court desire you will make public the foregoing provision of the Mahomedan law against it, by a circular notification to the police officers under your jurisdiction; and that you will enjoin them to apprehend all persons charged with the crime in question, in like manner as they are directed to apprehend persons charged with other crimes of a heinous nature; that, if there appear sufficient grounds for the same, they may be brought to trial before the Court of Circuit, and to exemplary punishment as the law directs."

On the 1st December 1817, a Circular Order was addressed to the Magistrates of the Ceded and Conquered Provinces, including Cuttack, directing them to cause a notification of the same tenor as that enjoined in the 3d paragraph of the above Circular Order to be published throughout the districts under their charge, in the event of such notification not having been already published in those provinces. Ditto No. 192.

In the case of Nujoom Oon Nisa, convicted by the Nizamut Adawlut in 1805 of maltreating her female slave, Zuhoorun, the Court sentenced the prisoner to imprisonment for the term of twelve months, and further ordered that the slave, "in consideration of the injurious treatment she had experienced from her mistress, should be declared free." Nizamut Adawlut Reports vol. 1. p. 55-6.

The Presidency Court of Nizamut Adawlut, in their reply to the Queries of the Law Commission, remark respecting the above trial, that no note being annexed to the proceedings, and the Persian record having been destroyed, it cannot now be ascertained what was the exact nature of the bondage of Zuhoorun. That "if the girl was a slave, as legally defined by the Mahomedan law, then the order of the Court directing her emancipation would appear to have been illegal. If however, on the contrary, the girl was not proved on the trial to have been a slave taken in battle, or the descendant of such a slave, then the ruling power would certainly be competent, under the peculiar circumstances of the case as set forth in evidence, to direct her immediate emancipation."

Slavery in India, 1828,
p. 225.

Another and similar case of cruelty by a Mahomedan female towards her slave girl was tried by the Calcutta Court of Circuit in 1814, in which punishment was awarded to the offender, and the slave girl was likewise emancipated. In this case, however, the emancipation is stated to have been directed "by the Law Officer's Futwah."

The following is an extract from the answer of the Allahabad Court of Nizamut Adawlut to the Queries of the Commission. "A case in point, as regards the liability of a Mahomedan master to punishment under the existing Regulations for maltreating his slave, came before the Court in the course of last year; in which the prisoner, a Mussulman, holding a responsible situation in the family of a native of rank at Cawnpore, was indicted on the prosecution of Government for being an accomplice in subjecting certain children, whom he had purchased during the famine in Bundelcund, to personal injury, cruelty and torture; and being found guilty of privy to the acts charged against him, was sentenced by the Court to imprisonment in the zillah Jail." "The prisoner," they add, "would have been liable to, and would doubtless have undergone precisely the same punishment, had he been a Hindoo, or the professor of any other faith." The reason assigned is, that the sentences of the Criminal Courts are regulated by the Mahomedan law, as modified by the Regulations. The Calcutta Sudder Court take the same view of this question.

Nizamut Adawlut Reports vol. 1 p. 233-4.

By the Mahomedan law, Hudd, or the prescribed punishment for larceny, is not incurred by a slave stealing or assisting to steal the property of his owner. But he is liable to discretionary punishment for breach of trust. Case of Chumelee and Nuseem Hubshec.

Slavery in India, 1828,
p. 244.

The inveigling away slaves as well as free persons, although not specifically provided for, is an offence punishable by the Criminal Courts, under the Mahomedan law, and general Regulations in force. Letter of Nizamut Adawlut to Government 1st May 1816.

On the 3d February 1826 the Acting Magistrate of Sylhet referred the following question for the orders of the Nizamut Adawlut. "It having been invariably the custom of this district for persons to complain in the Criminal Court to compel their slaves to work who may be refractory or abscond, and two different opinions having been given by the Court of Circuit (copies of whose proceedings I herewith send,) I request to be informed for my future guidance whether such complaints are cognizable in the Criminal Courts, or whether a master whose slave has absconded is only at liberty to complain in the Civil Court for his recovery. It may be as well to remark that at the lowest computation three fourths of the inhabitants of this district are slaves."

The Court replied to this reference on the 17th February, by instructing the Court of Circuit at Dacca "to communicate to the Acting Magistrate the opinion of the Court, that in no case of that description (viz. of complaints preferred by masters against their slaves for refractory conduct, &c.) is he authorized to issue orders from the Foujdaree Court, whether the right of property be unquestionable or not." At the same time those proceedings of the Court of Circuit adverted to by the Acting Magistrate, which were "contrary to the notion entertained by the Court as to the legal course of proceeding," were called for, and the order therein passed was subsequently annulled on the 28th of April, the Court ruling that "persons

should not be made over to slavery by a summary order passed in a Foujdary Court."*

The Civil and Session Judge of Bhaugulpore says in his Return, "Dur- Appendix II. No.
ing the time I held the office of Commissioner of Circuit for the Monghyr Division, a case came before me in appeal from the Joint Magistrate's order, directing persons who had been previously slaves to be released, not on any proof of the master's maltreatment, or after any enquiry made into that matter; but the order was, that the individuals in question, after the expiration of the period of imprisonment (in consequence of running away from their master,) should be at liberty to go where they pleased, in other words, made free." And he transmits a copy of the proceedings of the Nizamut Adawlut on his own orders and of his reply thereto.

The proceedings of the Sudder Court, dated 25th May 1830, are in these terms. "The Court observe, that Jhaul and others, five men and five women, were ordered to be released on the 10th Jan. 1828, by the Magistrate, and that Mr. Lee Warner, on an appeal to him by Runjeet, adjudged the individuals in question to be his slaves. As the order of the Commissioner is deemed to be improper and unauthorized by any Regulation, the Court annul the same, and direct that the Commissioner instruct the Magistrate to call before him Runjeet, and the individuals who may have been made over to him as slaves by the Commissioner's orders, and set at liberty the latter,—taking from Runjeet a *Mochulka* (recognizance) in a reasonable amount to abstain from illegally harassing the said persons, or any others affected by the order annulled, leaving the said Runjeet to seek his remedy in a Court of civil jurisdiction."

"The Court regret that Mr. Lee Warner should have considered himself at liberty to interfere in a case, which, even from the position of the petitioners—that in India slaves are assets the same as lands, and that large sums are expended "in the acquisition of that species of property"—was clearly not within his jurisdiction; and that he should have issued an order disposing of disputed property in human beings, which he must be aware that he was not competent to do with regard to any article of property, animate or inanimate."

The Commissioner replied to these proceedings on the 12th July 1830, and after referring, in explanation of his own proceedings, to the resolution of the Nizamut Adawlut, passed on a reference from the Magistrate of zillah Furruckabad, dated 17th July 1817, sanctioning a summary enquiry by the Magistrate in claims and disputes respecting slavery, subsidiary to a regular suit in the Civil Courts, and the grounds of that opinion, as given by Mr. Harington in a note at page 70 of the 1st

* In paragraph 6. of their reply to the queries of the Law Commission the Calcutta Court observe, "in the Criminal Courts, should a slave, admitted to be one, quit his master's service, or neglect to perform his ordinary work, he would be liable, on conviction, to summary punishment for the same."—Appendix II. No. 2.

On a late reference from the Government of Bombay to the Government of India, as to the course to be pursued regarding an application preferred by his Highness the Guicowar through the Resident at Baroda for the surrender of two female slaves, who had left the service of his daughter on a journey through the Bombay Territories, and taken refuge at Nasick, on the plea of ill treatment, the above Court having been called upon "to state what is the practice of the Courts under their controul in regard to cases of a similar description," in their reply, dated 9th Nov. 1833, say, "In ordinary cases the jurisdiction in matters regarding the property in slaves rests with the Civil Courts, and a Magistrate would not be justified in interfering in order to compel their return to persons claiming them. In the case under consideration the Court are of opinion that a Magistrate should have acted precisely as the Magistrate of Nasick has done, that is, refuse to deliver up the slaves, and refer the question for the decision of Government."—Appendix xvi.

vol. of his Analysis, proceeds: "I had viewed the case as an act of dispossession by the Court, and in opposition to the decree of the Civil Court, and to that course of life they (the alleged slaves) had been pursuing (by living as slaves in Runjeet's house) until the time of the theft; and I feared that an impression might go forth, that a slave to emancipate himself and relations had only to steal his master's property and be sentenced to a limited imprisonment in jail for the offence, when, on his being released from jail, he became at the same time, by official interference, without any enquiry into the facts, released from servitude."

"The Joint Magistrate punished the individuals in question, not because the crime of theft was proved, but for having fled (mufroor, from the house; and without any assigned reason, orders (in the conclusion of his Rubakaree) that after being released from jail they may go where they please. The decree of the Court states that the male and female slaves are the right of Duleep Sing, the father of Runjeet, and also uses the term (*ukrobai anha*) their kindred. Now it is without doubt that they are (the persons mentioned in my order) the descendants of one of the persons, who is still alive, named in the decree."

On the concluding part of the last paragraph of the Court's proceedings he remarks, "if taken in its literal sense, how is it to be decided whether the property which may be brought before the Court in a case of theft belongs to the thief (as he says probably,) or to the prosecutor? And it frequently occurs that an enquiry is necessary to determine whose the property may be in the first instance." And he notices, as a case in point, the orders of the Court in the case of Munneenath Baboo, at page 264, vol. III. of the Nizamut Adawlut Reports.

Construction No. 987.
27th June and 18th July
1831.

In June 1834 A (a Mahomedan) presented a petition to the Joint Magistrate of Shahjehanpore, stating, that in consequence of the famine to the southward* the British authorities permitted the purchase of slaves; that he had in consequence purchased a girl there, and had entrusted her to B, (also a Mahomedan), from whom she had run away; and claiming the Magistrate's interference to restore her to him. Some time previously the girl had made her appearance at one of the thanas of the district in a starving condition, and the Thanabdar, having offered to take charge of her, was permitted to do so, until her natural guardian could be found. The question was referred, through the Magistrate and Commissioner of Circuit, to the Nizamut Adawlut, whether a Magistrate is authorized to interfere in such a case. The Court ruled that the Magistrate had no authority to interfere with a view to restore the child to the petitioner A.

The following case† was brought in appeal before the Nizamut Adawlut at Calcutta, and disposed of on the 2d March 1837. Several Mahomedans petitioned the Magistrate of Tipperah in May 1836, for protection for themselves and families against A, likewise a Mahomedan, and zemindar of a portion of a pergunnah, alleging that they were free tenants, and that A restrained and coerced them though desirous of emigrating. The Magistrate issued orders to the Police Darogah to the effect, that if the petitioners were restrained they were to be released, and

* The Saugur and Nerbudda territories probably.

† Shekh Hazari and others, appellants, versus Dewan Masnad Ali, respondent. Appendix III. No. 9. This case is mentioned by the Witness No. 1 Raj Govind Sen.

if they wished to quit the place where they were, they should be allowed to go. The Darogah was also directed to enquire and report as to certain houses and effects which the petitioners claimed. A on his part likewise petitioned the Magistrate, stating that the complainants were his house-born slaves; that they had combined against him at the instigation of the agent of the zemindar of the other portion of the pergunnah; and that in consequence of the Magistrate's orders two hundred and fifty male and female slaves belonging to him had tumultuously broken out to his disgrace.

A then appealed to the Commissioner of Circuit, who passed the following order. "The persons affected by the Magistrate's orders are stated to exceed eighty. It was wrong in the Magistrate, without enquiry, to pass his successive orders for the release of the petitioners and their families. They appear to be the hereditary slaves of Musnad Ali, for in the petitions they are designated *khana-zads*, and *khana-ban*'s of Musnad Ali. It appears that a numerous band tumultuously broke out from the house and adjoining premises of Musnad Ali. This is not less than a riot. Now a riot tends to great mischief, which is subversive of good order. For in this part of the country, good order in respectable families depends on such inherited persons born and brought up in the family. In particular, in the families of Hindus and Moslims the abiding of such inherited persons is not illegal. On the contrary, there are indications of the legality thereof. It is usual for respectable people to have this class of people in their houses: it is not a new custom, that a sweeping order for emancipation should be passed without great mischief, or that the Magistrate should interfere summarily on their petition. If any extreme oppression, contrary to custom, were inflicted on this class of persons, and that should lead to disturbance and be subversive of good order, the Magistrate, (if in such case competent by Regulation to interfere,) may do so. Under every view, the orders are illegal and should be amended. I reverse his orders directing the release of the parties and their families."

On this the original complainants appealed to the Nizamut Adawlut to the following effect:—"The order of the Magistrate directed release of us and families. We are ruined by the reversal thereof. Musnad Ali contemplates perpetual imprisonment of us and our families. We are not his bought slaves, yet he always seizes and beats us: he does not allow us to go any where, nor to attend the festivals of our class-fellows. By the law and practice of this Court, a rich person is not allowed to restrain an unwilling poor man as his slave or servant. Regulation III. of 1832 was passed merely to prevent sale of slaves. According to the 9th Chapter of the *Hidaya*, a Muslim, living in a Mahomedan country, not a "Harbi captive," is not the slave of another. The claim of the zemindar is, therefore, contrary to Mahomedan law. We refer to case of *Khawaj* and others, appellants, and to the case of *Kewal Ram Deo*, appellant, versus *Golak Narayan Ray*.* These invalidate any claim on another as a slave."

The decision of the Nizamut Adawlut (2d March 1837,) was as follows:—"The orders of the Magistrate and Commissioner have been passed without any

* See ante p. 130-1.

previous enquiry. When Hazari and others charged Musnad Ali with assault, and alleged their freedom, the Magistrate took his affidavit and directed their release. As the agent of Musnad Ali alleged that the petitioners were his slaves, the Magistrate should have instituted a summary enquiry as to the issue of fact. If he found petitioners were free, he should have directed their release. If he found them to be 'ajir'* and house-born, he should then have passed such order as might appear fit under the law and local usage,—adverting to the Islam of the petitioners. Moreover the Magistrate at all events should have investigated the assault and seizing of which petitioners complained,—whether they be free or slaves. Let the orders of the Magistrate and Commissioner be reversed, and the former proceed as above directed."

In June 1825 a person complained to the Officiating Magistrate of Sylhet, that A, having obtained a decree against him, his brothers, and mother, as slaves, sold them against their will to B, whose intention it was to separate them, by sending them to different parts of the country.† The Officiating Magistrate submitted the following question to the Nizamut Adawlut :—" A person possesses a slave, and sells him to another person for a sum of money. The slave admits that he is the slave of the seller, but presents a petition to the Magistrate saying that he is unwilling to remain as the property of the purchaser ; he prays that the Magistrate will allow him to buy his liberty from the seller at the same sum the purchaser was to give, and thereby be absolved from slavery. Is the Magistrate at liberty to act accordingly ? The purchaser objects to the slave being able to effect this, and insists on his purchase being valid, and on his right of retaining the slave."

Appendix III p. 268-9.

The following questions were in consequence referred by order of the Court to their Pundits :—" A, an inhabitant of Sylhet, wishes to sell to B, his female slave, with her four sons and daughters, having fixed the price. The slaves have petitioned the Court to this effect. " We are willing to serve our master, but he, out of enmity, has made this arrangement with the intending purchaser, that he should remove us to another country, and re-sell us at different places."

Question 1. According to the Hindu law current in Sylhet, is such an objection of the slaves in respect to a sale under the circumstances, valid or not ?

2. If valid, can the slaves designate another purchaser selected by themselves ?

3. Or, can they obtain their emancipation, if able by any means to tender their fixed prices ?"

To which the Pundits replied thus :—" Fifteen slaves are propounded in Hindu law. We infer from the terms of the case, that the slaves referred to are of the class denominated *Griha-jata*, or house-born. Amongst the fifteen, there are the house-born, the bought, the obtained (by gift), the inherited, the self-sold. The emancipation of these five does not arise without the will of their owner. If the owner (inclined to sell his slaves) desire the discharge from him of slaves (of those five classes) by means of price fixed by himself ; then on account of his dominion and power, he may sell his slaves, though desirous of serving their master. But, if

* Literally ' Hirelinga.'

† In this case the complainant, defendant and purchaser were Hindoos.

by the sale to the purchaser selected by the master, grievance of the slaves should exist, their release from him ought to be held established by legal reasoning, the owner having received the price settled by himself, either from a buyer designated by the slaves, or any other buyer. For thus the owner suffers no loss. But slaves are never emancipated from slavery by paying the price fixed by their master from their own wealth; for the owner has dominion in the property also of his slaves."

In forwarding a copy of this *Bebusteh* to the Acting Magistrate, the Court (5th August, 1825) stated their opinion, as grounded on it, "that the slaves whom it is proposed to sell to one whose intentions they suspect and dread, may be allowed to select a purchaser with whom they are satisfied; and that in this their proprietor must acquiesce." They observed, however, that the answer of the Pundits "does not go the length of stating that slaves are competent to purchase their freedom from their masters against the consent of the latter."

The Magistrate of the district states that the prosecution was subsequently withdrawn, and no further proceedings held.

PROSTITUTION.—The Court of *Sudder Dewanny* and *Nizamut Adawlut* at *Allahabad* transmitted with their answer to the Queries of the Commission copy of the correspondence on the following case, which originated in the year 1816 in the district of *Furruckabad*. We state the case as described in note (a) p. 142 vol. III of the *Sudder Dewanny Reports*, to the case of *Mussummaut Chutroo*, versus *Mussummaut Jussa*, already mentioned. Appendix I. p. 184-192.

A girl (named *Gunna*) had been purchased when an infant from her parents by a prostitute, (of the Mahomedan persuasion), and having been educated in the courses, and for a long time followed the disreputable practices of her mistress, she at length attracted the special notice of *Hadee Yar Khan*, a most respectable person, who agreed to marry her in the event of her relinquishing her unlawful occupation. This she consented to do, and having left the house of her mistress, proceeded to that of the individual above named. The prostitute who had purchased her, and who of course dreaded considerable loss of profit from her departure, petitioned the Magistrate of *Furruckabad* to compel her return, with which request that officer, from a mistaken notion of duty, complied. An appeal having been preferred from the above order, the opinions of the best authorities in that quarter were taken as to the validity or otherwise of the prostitutes' claim, and the same question having been propounded to the (Mahomedan) Law Officers of the *Sudder Dewanny Adawlut*, they all unanimously declared that it rested on no legal foundation whatever, that a child purchased in its infancy was at full liberty when of mature age to act as best suited its inclination, and that it was even a duty incumbent on the Magistrate to punish any attempt at compelling adherence to an immoral course of life.

The following is an extract from the instructions of the *Nizamut Adawlut*, dated 16th June, 1816, to the *Barcilly Court of Circuit* in this case.

"It appears by the concurring opinion of the Law Officers of the *Nizamut Adawlut*, that the *Futwa* delivered to the Acting Magistrate of *Furruckabad*,—which declared the purchase of *Gunna*, as a slave, by *Mussummaut Jumayut* insufficient to establish a right of property, with reference to her not having been made captive

in *Jehad*, or a war against infidels, and even if it were legally valid, that the purchaser has no right to compel her to an act of immorality,—is strictly conformable to the Mussulman law.”

“ This is also confirmed by an exposition* of the Mahomedan law of slavery, received from the Law Officers of the Nizamut Adawlut in answer to a reference made to them on the 28th April 1808.”

“ Under these circumstances, the Court most deeply regret that Mr. Wright, without any judicial enquiry to ascertain the legal powers and rights of Mussumaut Jumayut, should have thought himself justifiable in seizing the person of Mussumaut Gunna, when on her way to Bareilly for the purpose of being emancipated from prostitution, and marrying the Nawaub Hadee Yar Khan, adopting measures which had an immediate tendency to prevent such marriage, and formally delivering over Gunna to a woman who had avowedly hired her out for the purpose of prostitution, and professed her intention of doing so in future, for her own support.”

“ Although the Court are unwilling to ascribe to the Acting Magistrate any other motive than a mistaken sense of duty, under the supposed legality of Jumayut's claim, and her consequent right to prevent the marriage of Gunna, yet they cannot acquit Mr. Wright of a very incautious and unjustifiable misapplication of the authority vested in him as a public Magistrate for the promotion of justice and good morals; especially after he was advised of the Mahomedan law as applicable to the case.”

On the 17th March 1830, the Commissioner of the Dacca Division submitted for the consideration of the Nizamut Adawlut a circular order which had been issued by the Magistrate of zillah Dacca Jelalpore to his Police Darogahs, with a view to check the indiscriminate sale of female children to women of bad character for the purpose of making prostitutes of them. This reference he accompanied with these remarks.

“ The Magistrate states that in his district it is a common practice for these women to entice young females from their parents or other protectors, and under pretence of a transfer by sale, to compel them to become prostitutes; and further, that child stealing for the same purpose is prevalent, the women above alluded to being purchasers. In order to check these evils the Magistrate has directed his Police Darogahs to prepare a list of all the prostitutes, with their young females, residing within their respective jurisdictions, which list is to be preserved at the tannah. When any of these women purpose purchasing a female the Darogah is to sift the matter, in order to ascertain whether the transaction be fair and proper, and to report the result to the Magistrate.”

“ Although the evil complained of by the Magistrate is one of a very serious nature, yet I am of opinion it will be better to leave it to be dealt with in the ordinary course of the administration of criminal justice. The practice of buying and selling young females for no other purpose than to make prostitutes of them, is not only abhorrent to the feelings of humanity, but I believe illegal. The interference

* Already referred to at p. 120 of these Details.

of the officers of Government, and the consequent tacit confirmation by the Magistrate of such sales as the Darogah may report to be fair, will naturally cause it to be supposed, that the practice is recognised and countenanced by Government, provided no improper means be resorted to in procuring the young women, and the effect will probably be to increase the evil it is intended to check. Further I do not see how the course prescribed by the Magistrate is to be enforced. It is not probable the purchasers will themselves give notice at the tannah except in cases of bonâ fide sales; and if they do not, they cannot be punished for the omission. On the whole I am of opinion, that the order is rather calculated to invest the Darogahs with a dangerous power of annoying the inhabitants, than to remedy the evil complained of, and should therefore be withdrawn."

The Court of Nizamut Adawlut (2d April 1830,) entirely concurred with the Commissioner's opinion as to the impolicy of the notification, and directed it to be immediately withdrawn.

PRACTICE OF THE COURTS IN CASES OF BONDAGE.

Local usage is the general principle by which the Courts in South Behar regulate their decisions in cases relating to the bondsmen, who have been described as constituting so large a portion of the agricultural labourers in that part of the country.

The master has no right over the property of his bondsman.

When the servitude is conditional* the bondsman is released from it on the repayment of the principal sum for which he had mortgaged his labor; but it has sometimes been the practice of the Courts to award interest to the master for any days the bondsman may have been absent from his work.

The contract has been generally regarded as one imposing a personal obligation only, and not affecting the children of the bondsman;† but the Principal Assistant in the Hazareebaugh Division, after stating that the individual executing the bond stipulating to serve until the amount was repaid, in some cases engaged only for himself, in others for the whole of his family and descendants in perpetuity, proceeds thus: "Formerly it appears to have been the custom to acknowledge the right of a proprietor to the bondsman and his descendants in perpetuity, and they were made over in the same manner as any other property. But since I have assumed charge of this Division, I have introduced a modification, founded (in the absence of any law on the subject) on principles of justice and equity."

Appendix II. No. 66.

"In my Court I admit the claim of a proprietor to a Kummeea if it be the individual who has executed the Saunknama—provided he was at the time of executing it of sufficient age to judge for himself. But I do not recognize his right to the possession of minors or females."

* It appears to have been considered by some public officers that even in the case of a contract to serve for life the bondsman has the right of redemption by repayment of the sum advanced. See the evidence of Messrs. Fleming and Robertson before the Select Committee of the House of Lords 1830.—Questions Nos. 1243 and 1694.

† Mr. Robertson's evidence before the Committee of the House of Lords 1830 (Q. No. 1711.) is to the same effect.

"Where minors have succeeded to any property from their father (a Kummeea,) I hold them answerable for the sum advanced on the Saunknama, subject to be tried for in the same manner as any other claim."

"In aggravated cases (of maltreatment) I should consider the Kummeea absolved from continuing his services to his proprietor, but answerable still for the debt, to be sued for as any other debt."

Few claims are preferred to recover runaway bondsmen, and few or no complaints by bondsmen against their masters. In cases of cruelty, hard usage, or maltreatment, they have received and would receive the same protection as free men.*

Appendix II. No. 99.

The Hurwas in the district of Allahabad appear to be of the conditional class, but according to the Acting Magistrate, on the death of the original debtor his sons become answerable for the debt in equal proportion, and are bound to serve until their share be liquidated.

Till a few years ago it was the practice of the Magistrate's Court of this district to seize runaway Hurwas and make them over to their masters, but this is not now done; the masters are referred to the Civil Court for the recovery of advances, and the Hurwa is treated in every respect as a free man.

We shall now treat of Slavery and Bondage in the remaining parts of the Bengal Presidency.

SAUGUR AND NERBUDDA TERRITORIES.

The judicial administration of these territories is entrusted to a Commissioner, having under him Principal and Junior Assistants. The administration of Civil justice is conducted by these officers under instructions issued for their guidance by the Government. In criminal matters they are subject to the Nizamut Adawlut for the Western Provinces.

Our information on the system of slavery prevailing in this part of India, and the practice of the Courts relative to it, is derived solely from the replies to the queries of the Law Commission furnished by the Officiating Commissioner, the Principal Assistants stationed at Saugur and Jubbulpore, and the Junior Assistants at Seonee and Baitool. The result of the inquiries of the Officiating Commissioner, which appear to have been directed to ascertaining the state of slavery as it existed prior to the British rule, is thus given by that officer.

Ditto, IV, No. 1.

First, "In these territories, the practice of slavery seems to have had scarcely any reference to either Hindoo or Mahomedan law on the subject; moreover, the customs seem to have been very uncertain and arbitrary in different places and at different times."

* The following is extracted from the evidence of Mr. Fleming before the Committee of the House of Lords in 1830 respecting the bondsmen of South Behar.

1244. What duties did their masters undertake towards them?—I believe it was quite nominal. Those bondsmen did exactly as they pleased; they came and cultivated for their masters when they liked it, or it was convenient to themselves; but I do not know any instance in which they were forced to work contrary to their will.

1246. What was the mode of enforcing the services of the bondsman?—I believe there was no mode of enforcing it, except by withholding the wages.

1247. Were they subjected to any corporal punishment?—No, not at all; if they had, they would have immediately complained to the Courts, and obtained instant redress; but I never knew such a complaint made.

Secondly, "Slaves were procured almost entirely by purchase of children from parents or relations in times of scarcity. The numbers do not appear ever to have been great, and are now very small indeed."

Thirdly, "The power of the masters over the slaves is by some, particularly the petty Rajahs, asserted to have been unlimited, even extending to death; by others, this is denied. I imagine that, in reality, it very much depended on the good understanding between the individual and the local Governor."

Fourth, "The masters were considered bound to afford protection to their slaves; to pay the expenses of their marriages. The progeny of slaves is by some asserted to have been free, by others, not."

Fifth, "The services on which slaves were employed appear to have been precisely the same as those of servants, either in domestic attendance, agriculture, or as military retainers."

We collect from the other Reports that slavery does not now prevail to any extent in these territories, and that such as does exist has its origin solely in the sale of children by their parents or other natural guardians in times of scarcity and famine, occurring in the territories themselves, or in the neighbouring countries of Bundelcund and Berar. These visitations are noticed as having been frequent in this part of India. The Junior Assistant at Baitool states, that in those parts of his jurisdiction which were under the Mahratta rule slavery is hardly known, and that an indigenous slave is scarcely to be found throughout its whole extent; such persons as are now in that condition having been sold to their owners in the famine of 1818-19, or more recently in the dearth which occurred in his district and in Berar in 1832.

The individuals thus reduced to servitude are, in Baitool, in the possession only of the more wealthy portion of the community, and there, as well as in Jubbulpore, they are employed as domestic servants. Their servitude appears to be of a very mild description, their condition comfortable and easy, and their treatment good. Being regarded rather as members of the family than hired servants or labourers, the mutual attachment between the master and his slave generally resembles that between parent and child; and their slavery is described as constituting a family tie rather than a condition of restraint.

In Baitool the sale or other transfer of a slave by his master rarely or never occurs, except in extraordinary circumstances, as famine or family distress.

Very few cases connected with slavery are brought before the Courts, either Civil or Criminal, in these territories. None appear to be on record in the Court of Seonee, and none are mentioned as having been instituted in that of Jubbulpore.

The Principal Assistant at Saugur states, that during six years' experience he has met with only the following descriptions of cases:—First, Of parents or other natural guardians reclaiming children sold by themselves or others during scarcity or distress:—Secondly, Female slaves complaining of ill treatment by, or claiming their freedom from bawds, who, having purchased them in their infancy, have brought them up to a life of prostitution.

After premising, that in the absence of any distinct rule the practice of one Court has doubtless varied from that of another, he proceeds:—"In the first of the

two cases, while the custom of the country recognises such a species of slavery both with respect to Hindoos and Mussulmans, still as it may be departed from without any ill effects, the practice of the ministerial officers does, I believe, vary. I myself have always restored the children on repayment to their protector of the charges incurred for their subsistence ; and in cases, which are the most frequent, of the utter inability of the claimants to meet this charge, I have directed service to be levied from them by the purchaser for a fixed term according to an equitable computation ; or if the child is old enough to be of service in his household, I have allowed the employer, on default of reimbursement for his expenses, and on condition of continuing to feed and clothe the child, to retain him or her for the same period in the relation of an apprentice ; rather than incur the additional expense of which, without any ulterior object, the purchaser has generally foregone all claim, and given up the child to its natural guardian, taking credit for having supported it meanwhile in charity."

"In the case of slave prostitutes forming particular attachments, and claiming their freedom, I have known the right of the master or mistress to their persons to be admitted, on proof of purchase from a parent or natural guardian ; and this indifferently, whether the girl and her purchaser were Hindoo or Mussulman. But my own rule, even if the purchase could not be invalidated, which is rarely the case when closely enquired into, has been, to consider the female as entitled to her freedom after the age of fifteen, on paying what shall be considered by arbitrators an equitable remuneration for her food and clothing during her minority, and making due allowance for the wages of her prostitution which have been enjoyed by her mistress, and which in most cases of this kind may well be considered to have discharged the debt."

Appendix IV, No. 3.

The Principal Assistant at Jubbulpore, speaking of the sales within his district of children by their parents, inhabitants of Bundelcund, during the famine which prevailed in that country in the years 1833 and 1834, says, "Most of these sales were made privately, but whenever the parties came to my kutcherry to have the bargain publicly sanctioned and registered, I have always informed them, that in the event of the parent appearing at any future period to claim the child, it would be required to be given up, on the parent paying a reasonable sum for its subsistence and education, should the latter have been bestowed upon it ; the amount of such remuneration to be determined by arbitration, should the children be so claimed."

Case of Madaree v.
Yacoub Alee Khan.
Constructions vol. 2, p.
172-5.

One of the sales made at this station, and authenticated in the manner above described, became shortly afterwards the subject of investigation before the Joint Magistrate of Shahjehanpore. Two female children, aged five and eight years, were sold by their parents in February or March 1834 to a Jemadar and Sowar of a Regiment of Irregular Horse for 14 rupees; the parents for that consideration "giving up their children to the purchaser" (for the contract was in the name of the Jemadar only) "to be disposed of in such way as he pleases until they attain the age of sixty years, on condition that they are to be supported by the purchaser." In June following the father prosecuted the Sowar before the Joint Magistrate of Shahjehanpore (the Regiment being then stationed at Bareilly) to recover his children, alleging that they had been stolen by the defendant from the bazar of Jubbulpore. On

the production of the written contract, it appeared that the prosecutor had misrepresented his name in the deed, and at the authentication of it. The Joint Magistrate restored the children to their parents on the ground that slavery is prohibited by the Government ; but he applied to the Magistrate for instructions "as to the mode of proceeding to be adopted with regard to the defendants." The question was referred, through the Commissioner of Circuit, to the Nizamut Adawlut at Allahabad, who determined, "that as it appears that the children in question were not purchased for importation and sale as slaves, the defendants cannot be considered liable to the penalty laid down in Clause 2, Section 2, Regulation III. 1832." but they made no remarks on the legality or otherwise of the sale, and the Joint Magistrate's order restoring the children to their parents. In this case the purchasers, and apparently the seller also, were Mahomedans.

By the practice of the Court at Baitool the master is considered to have a legal right to the slave's service, to his property, and in the event of his emancipation to remuneration for the expense of feeding and clothing him. The Officiating First Junior Assistant states, that of the children sold by their parents in this district in the famine of 1818-19, and more recently in the dearth of 1832, above adverted to, the greater number have been freed by the masters themselves, and a large proportion liberated on the parents reimbursing the owners for the money expended in their food and maintenance. From the above we infer that the right of redemption is allowed by the Courts in this jurisdiction, though this is not specifically stated.

Slaves strictly legal according to the Mahomedan law, are stated by the officers at Saugur and Seonee to be few or scarcely to exist in this part of the country.

On points connected with the civil branch of judicature we have the following opinions, as distinguished from practice.

The Principal Assistant at Saugur says, "should any suit for emancipation occur, although I should necessarily be guided generally by the Hindoo and Mahomedan laws respectively, as far as they are understood here, yet after the conflicting principles and precedents which may be adduced, and the latitude which seems to be allowed by Section 9, Regulation VII. 1832, as well as by the practice of our Courts in this territory, I confess I should be at a loss how to decide on any other principles than those of common sense, justice and good conscience."

Appendix IV. No. 2.

"The view of the matter," observes the First Junior Assistant at Seonee, with reference to the 1st Query of the Law Commission, "by which I should myself be guided, as that which appears to me most in conformity with the views of respectable natives themselves, is, that the property of a bonâ fide slave is the property of his master, saving what the latter may have himself bestowed ; and that the slave's person in like manner is claimable by the master for the performance of all lawful services, such as may be obtained from others for hire ; including, as regards female Mussulman slaves, concubinage, though not prostitution. And I would here observe, that I should consider the slave as having a reciprocal claim on the master for food, clothing, and lodging ; which principle has been observed in cases decided at Jubulpore."

Ditto, No. 4.

In the cases proposed in the 5th Query of the Law Commission, viz. the claim of a Mahomedan to a Hindoo slave when the slavery was legal by Hindoo,

but illegal by Mahomedan law, and vice versâ,—the Principal Assistant at Saugur would give the slave the benefit of the law most favorable to his emancipation, as he would likewise do were the defendant any other than a Hindoo or Mahomedan ; and the Officiating First Junior Assistant at Baitool would be guided by the law, religion, or usage of the defendant.

With respect to the 6th Query, the first of the above two officers would not support or enforce any claim to property in a slave by any other than a Mahomedan or Hindoo claimant, and not then if illegal by their own laws ; and the latter would not enforce a claim on behalf of or against any other than Mahomedans or Hindoos, on the ground that slavery is not recognised except between Mahomedans and Hindoos.

On points of criminal law ; the Principal Assistant at Saugur would not recognise the relation of master and slave in justification or mitigation for acts otherwise punishable ; and though he cannot say how far the Courts would be justified in the eye of the law by following the dictates of reason and humanity, and emancipating a slave, Hindoo or Mahomedan, from a tyrannical master on proof of gross and incorrigible ill treatment, he thinks such would be the practice of his Court.

The First Junior Assistant at Seonee considers that the Courts would permit to the master such acts of coercion as they would allow a parent in respect of a child, but would punish cruelty or acts of vindictiveness, but not emancipate on that ground. He mentions a recent application of a Mussulman of Seonee for permission to place an iron on the leg of his slave, who, he stated, would not obey his orders ; this permission was refused, and the master was informed, that kind and judicious treatment would be his only effectual means of obtaining work from his slave. " I believe," he adds, " that other Mussulmans in Court at the time viewed this as the only just order that could have been passed." Smaller offences by slaves against their masters he regards as more fit for the cognizance of the master than of the Courts ; like as between parent and child ; but he would punish slaves for more serious offences without reference to their status. Both from the expositions of the Hindoo law, and the views of the Hindoos themselves, he thinks there is no sufficient ground for hesitating as to the prevention of cruelty or violence of a Hindoo master towards his Hindoo slave ; and he would make no distinction between a Hindoo or Mahomedan slave owner except in respect of concubinage, which the Mahomedans view more in the light of marriage, the Hindoos as prostitution and contamination ; and considering the relation as conferring reciprocal rights, without giving to the master the power of exercising cruelty or violence, any more than is possessed at all times by a parent, he would not be disposed to make any distinction in regard to persons of any other race.

According to the Officiating First Junior Assistant at Baitool, cruelty and maltreatment are not considered to justify emancipation. The master may inflict on his slave such moderate chastisement as he may consider requisite, but a slave has as great a right to protection against severe and cruel treatment as any other British subject. " I have reason to believe," he says, " that this rule existed in force under the Mahratta as under the British Government." He is aware of no indulgences granted either to master or slave in any case.

Both at Sconee and Baitool full protection would be given to the slaves against other wrong-doers than their masters ; and the officer at the former station adds, that he would hold the master responsible in such cases if he did not use his endeavour to protect his slave.

We have the same representations from the officers in these territories as in other parts of the presidency, of the want of clear rules for their guidance in cases relating to slavery.

“ The practice,” says the Officiating Commissioner, “ of the different Magistrates and Courts seems to have varied much, to the great vexation and annoyance of the people. It would be highly desirable that a definitive law should be passed, either totally abolishing slavery or allowing it ; and if the latter, declaring under what rules and regulations it should be tolerated.”

The Principal Assistant at Saugur observes : “ The Regulations not having hitherto been in force here, and no specific rule having been ever, so far as I am aware, laid down for our guidance respecting slavery, I have never had, in the Courts with which I have been connected, any other guide than precedent, and the custom of the country, modified by the discretionary power vested in the Assistant, whose decisions are supposed to be governed by equity and reason. Such being the undefined nature of the law of slavery in these parts, the tendency of our practice, so far as my observation and experience extend, has been to condemn the principle altogether, and wherever it could be done with safety, and without interfering too much with popular prejudices, to disallow its operation. But the promulgation of some certain and well defined law on the subject appears highly desirable.”

The First Junior Assistant at Sconee, after stating his own view on some of the points contained in the Queries of the Law Commission, says, “ I need scarcely add, that in the above view I have been guided more by the dictates of my own judgment, and what I have been able to gather of the views of respectable natives themselves, than by any reference to the codes of law.”

In the Baitool district measures were adopted in 1831 to ensure a greater consistency of judicial decisions, and conformity to the practice of the Courts in the Western Provinces. Captain Crawford, then Principal Assistant at Baitool, applied on the 25th April 1831 to the Commissioner, Mr. F. C. Smith, for instructions on the subject of slavery, which were furnished on the 29th of the same month ; and Captain Crawford was likewise supplied at his request with a variety of cases disposed of in several Courts of the Western Provinces ; “ and these,” says the present Officiating First Junior Assistant, “ together with the instructions, form the guides for the Assistant in any cases that may arise.”

We are not informed of the nature of the decisions referred to, but Mr. Smith's instructions will be found in the Appendix. In them the Commissioner adduces the Construction of the Sudder Dewanny Adawlut in 1798, confirmed by Government, which has been given in a former part of these Details, and the Construction of the Nizamut Adawlut of Regulation X. 1811, circulated on the 5th October 1814, as permissive of slavery. He describes the two classes of persons who only can be slaves according to the Mahomedan law, viz. infidels made captive in war, and their descendants ; and refers to the case of Mussumaut Chutroo, versus Mussummant Jussa before noticed. Respecting slavery under the Hindoo law, he says, (quoting

from Mr. Colebrooke,) "The Hindoo law fully recognizes slavery, which may occur from several causes; viz. capture in war, voluntary submission to slavery for divers causes (as a pecuniary consideration, maintenance during a famine, &c.); involuntary, for the discharge of a debt, or by way of punishment of specific offences; birth (as offspring of a female slave); "gift, sale, or other transfer by a former owner; and sale or gift of offspring by their parents;" and adds, "from which it may be perceived, that there are five descriptions of permanent thralldom." He concludes with the direction, that "In cases wherein both parties, or the defendant alone, are Mussulmans, you should decide according to the Mahomedan law: and when both parties, or the defendant are Hindoos, by the Hindoo law." With reference to this direction it may be remarked, that the instructions were framed prior to the enactment of Sections 8 and 9, Regulation VII. 1832.

Slavery in India, 1838,
p. 363-4.

On the 29th July 1836 the Officiating Commissioner referred the following case, which arose in the Saugur district, for the consideration of the Lieutenant Governor of the North Western Provinces, "urgently requesting some expression of the opinion of Government as to the general principle to be adopted in such cases."

"A man, caste coolie, in consequence of distress, sold his daughter, aged twelve or thirteen years, in 1833, for 16 rupees, to Mirza Roheem Beg Resaldar; plaintiff now wishes to recover his daughter, to which defendant objects, on the plea that his family have taken great pains in teaching her duties as a household servant, and especially as the girl prefers remaining where she is, which she herself stated to Lieutenant Smith (Officiating Principal Assistant at Saugur.) The girl has become a Moossulmunee; and although the plaintiff declares he will hold a punchayet, and restore her to caste, I doubt whether he can do so."

The Officiating Commissioner had previously, on the 11th June, made the same reference to the Nizamut Adawlut at Allahabad, on the grounds, that the direction contained in Section 17, Regulation II. 1803, to act according to justice, equity and good conscience, in cases for which no specific rule exists, furnished no guide to the judicial authorities in cases like that under reference; and that very opposite decisions had been given by different officers on the subject of slavery. The Court's reply, dated 1st July 1836, communicated their opinion, "that under the circumstances detailed, the Principal Assistant has no authority to interfere with a view to restore the girl in question to the complainant, who should be referred to the Civil Court for redress." The Officiating Commissioner, not being satisfied with this reply to his enquiry, referred the question, as above stated, to the local Government, submitting at the same time copies of his letter to the Nizamut Adawlut, and of his answer to the Queries of the Law Commission.

The resolution of the Lieutenant Governor of the N. W. Provinces on the case was conveyed to the Officiating Commissioner on the 23d August 1836, in the following terms. "If the girl be old enough to choose for herself, it is optional with her either to return to her father or remain where she is. The father has lost all right to her, by disposing of her for money; and the purchaser has acquired no right, the purchase of any one, as a slave, being illegal."

As the limited amount of slavery which exists in these territories is stated to have originated, both before and since the British rule, in the sale of children in times of scarcity and famine, the above resolution of the local Government may

be said to have negatived its legal existence in respect of all persons whose slavery or the slavery of whose parents originated subsequently to the acquisition.

KUMAON.

Of the territories ceded to the British Government by the Raja of Nepal, under the treaty of peace concluded on the 2nd December 1815, many portions were subsequently restored to the native chiefs to whose authority they were formerly subject, or transferred to the independent authority of other native chieftains or powers. The portions which were retained under the authority and dominion of the British Government are as follows ;—1. Jounsar, Bawur, Poondur and Sundokh, and other small tracts situated between the rivers Jumna and Sutlege.—2. The tract of country called Deyra Doon, theretofore forming part of Gurhwal.—3. The province of Kumaon, which, as now constituted, comprises the whole of the Raj of that name, together with a large portion of the principality of Gurhwal.

The administration of civil and criminal justice in all the above territories is conducted by British Officers under instructions issued for their guidance by the Government ; the Sudder Court at Allahabad having superintendence and controul in civil cases, we believe, over all the territories, and over the province of Kumaon in criminal matters likewise.

In the Statistical Sketch of Kumaon by the late Commissioner, Mr. W. Traill, we find the following account of the manner in which that province was brought under subjection by the ancestors of the chieftains who possessed it before the Goorkha invasion in 1803, and from other information it appears equally applicable to the tracts between the Jumna and the Sutlege.

Asiatic Researches, vol. 18 p. 159-60.

Hamilton's Hindustan, vol. II. p. 607-8.

“ The original occupants of the country, whenever they may have come, would appear to have been completely uncivilized, and wholly ignorant of agriculture and the common arts of life. At a period, comparatively speaking not very remote, the celebrity of the Himalaya in the Hindoo mythology, by inducing a constant resort of pilgrims, led to the gradual colonization of the country by natives of various parts of Hindustan, who introduced their religion and knowledge ; and the country having by these means been rendered an object of competition, its invasion and conquest soon followed. Such are the ancient traditions, and their simplicity entitles them to consideration.”

“ In the interior the inhabitants are comprised under three classes only, Brahmins, Rajpoots, and Doms ; in the towns other castes and branches are to be found. The institution of caste exists among the upper ranks in its utmost rigour ; among the lower ranks of Brahmins great latitude is taken in regard to labour, food, &c, and their claim to the distinction of that caste is, in consequence, little recognised. The mass of the labouring population, from similar causes, have still less pretensions to the designation of Rajpoots, which they assume. To the Doms or out-castes are left the whole of the inferior trades, those of carpenters, masons, blacksmiths, copper-smiths, quarriers, miners, tailors, musicians, &c. ; and by them also are performed the most menial offices.”

We have no information on the subject of slavery as respects the tracts between the Jumna and Sutlege, and the Deyra Doon. In the province of Kumaon slavery

has existed from time immemorial. No census has been taken of the slave population since the introduction of the British rule, but the system must prevail to a great extent, as all persons above the lowest class possess both domestic and agrestic slaves, according to their means; the more wealthy having from 20 to 25, others from 2 to 10 domestic, besides agricultural slaves; the Brahmins being the principal slave-owners. The only restriction imposed by usage on the possession of this description of property is, that no person should hold a slave of superior caste to himself; and whenever this does take place, the master cannot employ him as a domestic servant, but only as a peon or messenger, or for other like purpose.

This system of slavery, except that of the Domes which we shall mention presently, has originated in several ways.

1. The sale of children by their parents or other relations in time of distress, and sometimes by strangers.

2. Self-sale.

3. The sale of wives* by their husbands; sometimes in consequence of intrigue, when the offending wife was usually disposed of to her paramour.

4. The sale of widows by the heirs or relations of their deceased husbands, when unable or unwilling to support them.

5. Penal slaves, consisting of convicts condemned to labour on the private lands of the Raja, and to whom they became from that period hereditary slaves.

6. Male and female slaves imported from the countries bordering on Bhadrinath. The imposts levied on this traffic formed part of the revenues of the state, when Gurhwal, including Kumaon, existed as an independent principality.

The domestic slaves, called "Kumara" or "Chokra," are of all classes who can be considered pure, except Brahmins; generally they are Kuhars, Kotas, Kurmis, Malis, Lodhas, Moras, Kachhis and Sandis.

The agrestic slaves, called "Halee,"† are Sudras, Modies and Domes.

It does not appear that there are any Mahomedan slaves.

Of the Domes we find the following account in the Statistical Sketch already quoted. "Of the aborigines a small remnant, pertinaciously adhering to the customs of their ancestors, are to be found in the Rawats or Rajis. They are now reduced to about twenty families, who wander in the wide freedom of savage life, along the line of forests situated under the eastern part of the Himalaya in this province.‡ In all probability the out-castes or Doms are in part descendants from them; a conjecture that is founded chiefly on two circumstances; first, the great difference in the personal appearance of the Doms from the other inhabitants, many of the former

* "At the same time marriages here are all mere bargains of sale and purchase, the bridegroom paying for his bride according to his situation in life. So interwoven are ideas of servitude with the habits of the people, that when the means of the suitor are insufficient to satisfy the parents' demands, an equivalent is sometimes accepted in the personal services of the former for a given period of years."—*Slavery in India*, 1838, p. 361.

† "The "Halee" was distinct from the "Kynes" or vassal, a sort of under-tenant who paid a share of the produce, and performed certain personal services to the proprietor of the land."—*Slavery in India*, 1838, p. 360.

‡ "Their language," it is subsequently stated, "is totally dissimilar from that of the present Kumays."

having curly hair, inclining to wool, and being all extremely black; and secondly, the almost universal state of hereditary slavery in which the Doms are found here. With the origin of this slavery even the proprietors are unacquainted; it may, however, easily be explained by supposing a part of the aborigines to have been seized and reduced to that condition by the first colonists above mentioned." "From its extent it can scarcely be ascribed wholly to the mere process of purchase."

Some idea may be formed of the degraded state of these unfortunate out-castes from one of the penal laws of the province, by which any infringement of the distinction of caste by a Dome, such as knowingly making use of a hookah or other utensil belonging to a Rajpoot or Brahmin, was made a capital offence. Mr. Traill states that the Domes "are commonly of loose and dissipated habits; confirmed," he adds, "if not acquired, by continued intercourse with the plains." Those carrying on trades were found in a free state on our acquisition of the country.

The slaves were hereditary and transferable property, and could not be emancipated without the owner's consent. Strictly they could possess no property as against their masters, but they were generally left in the enjoyment of whatever personal effects, money, ornaments, &c. they possessed, and on their death their effects descended to their children. An illegitimate child had no claim to the property left by his natural father. On default of heirs the effects either went to the master or were taken by the Raja. If a slave becomes reculant in work his master seizes every thing he is possessed of.

The female domestic slaves prepare the rice, flour, and other dry food, fetch water, wood and other supplies for the house, and perform other menial offices for the household, except cooking. The males assist in agriculture and other out-door work, bear messages, and on occasion of marriages or journeys carry their master's palankeen.

The agrestic slaves are chiefly employed in ploughing and other field labour, but when not so occupied, cut wood or grass, carry burthens, and perform other out-door work.

There are a number of female slaves belonging to the temple of Bhadrinath.

Formerly the masters used to correct their refractory slaves, but this is not now permitted.

The domestic slaves lodge in their master's house, or in huts adjoining it; they are fed from the family meal, and are usually supplied with clothes like members of the family. Some are detached and have lands assigned them, rent free, for their support, and periodical supplies of clothing; and this is generally the case when the family of a slave has become numerous. They are supported when unequal to work, and taken care of in sickness.

The Halees either lodge in huts near their master's house, and have two meals a day, or they have lands assigned them, rent-free, on their master's estate, on which their huts are erected. These last receive rations also on the days they plough or do other work for their owners, and three or four sheaves at the spring and autumn harvests. On holidays and festivals they likewise have rations, or a present in money.

Slavery in India 1838.
p. 361.

The allowance of clothes for the slaves and Halees is two suits in the year, and a blanket and pair of shoes in the winter ; or money in lieu of the same. The Officiating Commissioner in his Report of February 1836, states the allowance of clothes both for household and field slaves to be "a *than* (piece) of cloth for a dress every six months, and a blanket every third year."

The condition of both classes of slaves is said to be good, and their food sufficient. The domestic slaves are regarded as part of the family. The females work harder than the males.

Free labour is stated not to be procurable.

According to one account hereditary or house-born slaves are not transferable by sale, but they are generally allowed to be so, under the limitation that a master shall not sell his slave to a Mahomedan, or to a person of inferior caste to the slave. They are, however, disposed of only when the master is reduced to distress. In respectable families on the occasion of a daughter's marriage male and female slaves sometimes form part of the nuptial present.

They are occasionally mortgaged by their owners as security for payment of a debt.

In the Officiating Commissioner's Report above quoted, the Halees are described as "*serfs or adscripti glebæ*," and as "belonging with their children and effects to the lord of the soil, like the beasts or other stock on it." But we do not find any mention of this in the other Reports, and it is clear that some are bought and sold independently of the land ; though it is probable also that many who have been long located on the same property are transferred with it on any change of ownership or occupancy by sale or mortgage.

During the Raja's government the exportation of slaves was prohibited, but on the successive conquests of Kumaon and Gurhwal by the Goorkha power, and the heavy assessments imposed on the country, the families and effects of the revenue defaulters were seized and sold to liquidate the balances which ensued, and a ready market for the former was found in the neighbouring towns of Rohilcund. A similar fate attended the *pergunnahs* of Jounsar and Bawur, which, when conquered by the Goorkhas, were made over to different sirdars for the payment of their troops, at a greater value than the country could afford, and to make good the deficiency the Goorkha soldiers were allowed to seize and sell the inhabitants for ready money.

These calamities were further increased in Kumaon by a scarcity which prevailed during the years 1809, 10 and 11, and besides the children whom the misery of their parents compelled them to sell, many of those imported into the neighbouring districts of the British provinces had been inveigled away, secretly stolen, or forcibly carried off. The traffic in slaves which was carried on at this time between the Goorkha dominions in Gurhwal and Kumaon, and the districts of Bareilly, Moradabad, Saharunpore and Meerut, by professional slave dealers, has already been noticed in a former part of these Details.

On information being carried to Nepaul of the seizure of children in liquidation of arrears of revenue the practice was strictly forbidden by that Government,

and a Commission deputed expressly for the purpose of restoring all such children to their parents, and of declaring the sales invalid.

The marriages of slaves are made with the consent of their master, by whom the expenses are defrayed. The offspring are his property, and serve and are maintained by him.* The illegitimate children of a female slave by the slave of another master belong to the mother's owner. The expenses attending the funerals of slaves are likewise borne by the master.

Young females are bought from their parents by prostitutes, for the purpose of their profession, under deeds of sale conveying to the purchaser entire property in the person of the party sold. They are called *Dhurum putris* or adopted daughters. The prohibition under the former Government against exportation did not extend to these purchases of girls by prostitutes of the country, who emigrated in their vocation.

The Domes and other out-castes sometimes bind themselves to work for others either for life, or for a specific term, in consideration of a sum advanced to them for a marriage or other occasion, or until the debt is satisfied by their labour. These labourers receive nothing from their masters except one meal for every day they work for them; and the contract does not affect their children.

Various and important have been the measures adopted for the gradual extinction of slavery in these parts, since the commencement of the British rule.

Immediately on the assumption of the government of Kumaon by the British authorities, the transit duties which the Goorkha rulers had continued to levy on the slave traffic in male and female children, were abolished, and the traffic itself, which was understood to be of great extent, was prohibited.

Slavery in India, 1838, p. 366.

Also previously to the re-establishment of the Raja of Gurhwal on the conclusion of the Nepaul war, a sunnud was delivered to him specifying the conditions of the grant, one of which was that he should abolish the traffic in slaves.

Hamilton's Hindustan, vol. ii. p. 638.

On the 5th June 1823, at the recommendation of the Commissioner of Kumaon, the Government sanctioned a proclamation prepared by him, prohibiting the sale of wives by their husbands, and that of widows by the heirs or relations of the deceased husbands; but the proclamation was not published until the beginning of the following year. During the year 1823, 168 complaints regarding the sale of females had been brought before the Criminal Courts of the province, of which 19 were proved, 67 dismissed, 78 withdrawn or non-suited, and 4 were pending at the close of the year. It appears from the Commissioner's Report, that the whole of these were cases of sale of wives and widows by their husbands and their heirs, and that the cases dismissed were almost wholly claims founded on purchases of this nature made since the introduction of the British government.

Slavery in India, 1838, p. 416-17.

* In the note at page 54 we noticed the statement of the Judge of Mymensing, that the fact of the master defraying the expence of the slave's marriage is, among Hindoos, the foundation of his right over the offspring. We find the same view of the origin of this right in the Report of Kishn Nand, Acting Peekhar of Hazur collections, countersigned by the Chowdhris and Kanoongoes of the pergunnah. Speaking of the bought Hall he says, "He is married at the cost of owners. For this reason his children are his master's property."—Appendix V. No. 5.

The sale of children for the purpose of being taken out of the hills of Kumaon into some other district was also prohibited, but we do not find by what order : perhaps Regulation III. 1832 was considered to apply to such cases. This description of sale, though at first, from the destitution and misery to which the people were reduced, dreadfully common, has decreased in proportion to the improvement of their condition, and the prosperity of the country. No doubt, however, it still occurs ; and there is reason to fear that the traffic between the hills and the plains in female children for the purpose of prostitution is still carried on to a considerable extent.

Slavery in India, 1838,
p. 51, 53.

In May 1832 a prostitute of Subathoo applied to the Principal Assistant at that place for leave to purchase a female from the Raja of Mandee beyond the Sutlege, who, she stated, had several for sale, according to a practice common in those parts. On this occasion the Assistant reported that a number of female children were annually carried to the plains for prostitution. The application was rejected, and the Government determined that purchases for such a purpose were illicit, and that any compulsory attempt to enforce them was punishable.

Ditto, p. 7.

In August of the following year the Rana of Baghul (one of the protected states between the Jumna and Sutlege) detained a female child, who had been sold into slavery by the same Raja of Mandee, and two men, inhabitants of the protected Sikh state of Khur, who were conveying her through his territories ; and directions were given by the British authorities for her being restored to her parents.

The practice of the Courts of Kumaon on the subject of slavery, and the extent of their recognition of the system previously to 1836, may be thus briefly summed up.

No sale except the self-sale of adults, and the sale of children by their parents, was allowed to be sufficient to create a right of property in any individual, male or female.

The sale of children for removal out of the hills was deemed illegal.

Children seized in liquidation of arrears of revenue during the Goorkha government, and sold by the military officers, were always manumitted by the Courts.

Wives proved to have been sold by their husbands were decreed their liberty, and the purchase money confiscated to Government.

The sales of widows by the heirs or relations of the deceased husband were also held illegal.

Transfers of slaves from one master to another, though they took place, were not recognised ; nor could they be effected contrary to the inclination of the party transferred, as on application to the Courts he would obtain relief. But petitions praying for liberty, or complaining of ill treatment, were not frequent.

Slaves running away from their owners were not apprehended by the Courts ; but claims for service, or, on the other hand, for freedom, were entertained and investigated like other suits.

In the year 1836 an important change took place, which was brought about in the following manner.

Slavery in India, 1838,
p. 6, 9, 70-72, 74-77, 300-3.

In April or May 1835 a subject of the Raja of Gurhwal applied to the Political Agent in the Deyra Doon to have five slaves, Domes, who had fled from him into the British territory, restored to him ; and he presented a letter addressed by the

Raja to the Agent, requesting that the petitioner's application might be complied with.

The facts seem to be these. The five slaves were a father and mother, and their three children. The father of the male had, during the Goorkha dominion, sold both him and his wife for 17 rupees to the person, likewise a subject of the Raja, from whom the complainant derived his title. For thirty-three years they continued to cultivate the land of their master, but five months prior to the complaint he sold them, together with their children, for 180 rupees, to the complainant; with him they remained one month, and then absconded to the Doon in consequence of his ill treatment of them.

The complainant pleaded the usages of his country, which appear to have been the same in regard to this description of slave as those of Kumaon; but the Agent decided that the slaves were at liberty to reside where they chose, and that no person should be permitted to seize them without his orders.

The Agent likewise addressed the Raja of Gurhwal on the subject, which drew forth a reply from that chief, enforcing the reasons previously urged by the complainant, and appealing to the usages of Kumaon as recognised by the British authorities in that province; and these statements having been confirmed by the Commissioner of Kumaon on reference to him, the whole proceedings were submitted for the consideration and orders of the local Government.

The resolution of the local Government, dated the 2d January 1836, was to the effect, "that the Government cannot countenance slavery;" and that the Political Agent "had acted properly in refusing to restore the persons who had fled from the territory of the Raja of Gurhwal." The Officiating Commissioner of Kumaon was also "called upon to report regarding the custom of trafficking in slaves in that province, and the practice of cultivating the soil by the labor of Domes purchased for that use, which was said to exist there, and generally in the hill districts."

Subsequently, in the May following, and after a further representation on his part, the Raja of Gurhwal was written to in a tone of friendly council, pointing out to him the evils of slavery, and the renown which he would acquire by suppressing it in his dominions.

The Hon'ble Court of Directors communicated their approbation of these proceedings in a letter dated 13th February 1838.

On the 5th February 1836 the Officiating Commissioner of Kumaon submitted his Report on the system of slavery prevailing in that province, and the practice of the Courts respecting it; and concluded with a request to be furnished with instructions for his future guidance, with reference to the determination of Government not to "countenance slavery."

Before coming to a determination, and with a view to enable the Government more clearly to understand the nature of the claims for service or for freedom referred to in his Report, as also the mode in which decisions in such cases were enforced, the Officiating Commissioner was directed to submit the records of the trial and execution of two or three of the cases of each class of claims. On these being furnished, and the opinion of the Commissioner ascertained on the subject, the

Lieutenant Governor of the North Western Provinces finally resolved, on the 31st May 1836, "that in future no suits either for the restoration of slaves or for the enforcement of slavery shall be received in the Courts under the Commissioner in Kumaon."

Appendix V. No. 2.

These orders are in full force: from the above date no suits of the nature therein described have been allowed; and many slaves have since been enfranchised under judgments of the Courts. Slavery, however, still continues, and one of the public officers mentions a new practice which he learnt had sprung up; that of persons taking deeds of mortgage from others whereby the latter bind themselves to serve a defined time in consideration of a sum stated; which sum, however, the obligors do not receive, but their fathers or other relatives; yet decrees, he states, are given by the native judges against the obligors, in satisfaction of which they render labor.

ASSAM.

The province of Assam is at present divided into three portions; viz.

1. Lower Assam or Kamroop, which is the western portion, and of which Gowhatty is the chief station.

2. Central Assam; subdivided into North Central Assam or Durrung, and South Central Assam or Nowgong; the principal stations of which are, respectively, Durrung and Rungogurra.

3. Upper Assam, which is the eastern portion.

Prior to 1832 there were two Divisions only, viz. Lower Assam, which comprised the parts now included in the Lower and Central portions; and Upper Assam.

The Judicial Functionaries in this province are subject to the controul and superintendence of the Courts of Sudder Dewanny and Nizamut Adawlut at Calcutta; to be exercised in conformity with the instructions of the Bengal Government issued to those Functionaries.

Slavery prevails very extensively throughout the whole province. The chief wealth of all the respectable inhabitants consists in the slaves they possess, inasmuch as they are in a great measure dependant on them for the cultivation of their lands; and in many instances the higher orders have no other property but what is derived to them from the labour of their slaves. A census, taken about the year 1830, of the population of Lower Assam, as then constituted, gave a total of 3,50,000; of which 11 or 12,000 were adult slaves. Of these slaves it was calculated one fourth were married, and allowing four births to each marriage, the Officiating Magistrate estimated the whole number of slaves at 27,000, or about 8 per cent. of the entire population; though we do not perceive how he obtains this result. The slaves are stated to be less numerous in the district of Durrung than in other parts of the province.

Appendix VI. No. 4.

A principal source of slavery in Assam, as in other parts of India, is the sale of children by their parents in times of individual distress or general scarcity; but the operation of this cause was limited in those portions of the province which now constitute Central and Upper Assam by the peculiar nature of their political system. In them, under the former Government, the whole of the free male population, who were called Payiks, owed service to the state, in consideration of which

they held their lands tax free; and sometimes in individual cases a poll tax was levied in lieu of these services. Every free male was therefore strictly prohibited from selling himself or his male children into slavery without the sanction of the supreme ruling authority; which, however, was usually given in times of famine.

The prohibition is still considered in force, though the state of society which gave rise to it no longer exists. In 1825, during a period of partial famine, and much distress occasioned by the rapine of the Burmese and their allies and the release of several thousand captives from the hands of the Singphos, the British Commissioner of the province issued a proclamation permitting free men to sell themselves as slaves from June to October of that year, as the only means of preserving their lives. The sanction of Government was subsequently obtained to this measure, but it was disapproved of by the Court of Directors.*

Slavery in India, 1839,
p. 1. 2. 37.

Female children are constantly sold, and adult females occasionally sell themselves to discharge a debt, or relieve their parents and relations. The self-sale of male adults seems not to be practised in Assam.

Free females voluntarily married to male slaves become the slaves of their husbands' owner in the absence of any special agreement to the contrary.

Except a few Naga females presented by the mountain chiefs to the King of Assam as curiosities, the Assamese do not appear to have imported slaves.

Under the former Government prisoners of war, and criminals who after being capitally condemned had their sentences commuted to slavery, were often granted to individuals as slaves; and even individuals of the free population were sometimes granted by the King as slaves to his nobles and spiritual advisers. This last description of slave was called '*Bohuttea*.'

Persons born of slave parents are slaves; and persons born of female slaves are generally slaves also.

But a considerable part of the slavery existing in Assam originated in the abuse of the Payik system. It was the practice of the Assamese Government to pay its officers by assignments of the labour of the Payiks, and these officers frequently contrived, through the imbecility of the Government, both to enslave the persons and usurp the lands of the Payiks thus assigned to them. After the province came under British rule a minute enquiry was instituted into this abuse, and 6,136 slaves were liberated under the operation of it; but the investigation proved so vexatious, and was so corruptly conducted by the agents employed, that it was put a stop to by the Commissioner before it was completed. Many persons, however, illegally detained in slavery, as above described, have been since liberated by due course of law.

The abuse of the system of bondage was likewise a source of slavery, as will be more particularly mentioned under that head.

* Mr. Scott in consequence further explained the grounds of his proceeding in paras. 18—32 of a Report on the systems of slavery prevailing in the territories subject to his superintendence. This Report, to which we shall have again occasion to refer, is dated 10th October 1830, but was never despatched, and was found amongst Mr. Scott's papers after his death. From the corrections noted upon it it would appear to have been kept back for revision.—See Appendix VI. No. 5.

Asiatic Researches, vol. xvi. p. 237. 339, India Gazetteer.

Besides these indigenous causes of slavery, many of the free population had been reduced to that condition during the distracted state of the province for some years previously to the British conquest of it. About 1814, while the civil wars prevailed, the tribe of the Khamptis* took forcible possession of Suddiya, reducing the Assamese inhabitants to slavery, and maintained possession of the district, uniting with the Burmese interest during their invasion and occupation. Another wild tribe, the Singphos, had also recently taken advantage of the weakness of the Assam Government, and carried their ravages beyond the capital, Rungpore, laying waste the whole country as far as Jorhaut, and carrying off the inhabitants into slavery. Both banks of the river were swept by their depredations, and the number of captives carried off amounted to many thousands. Of these the greater part were sold to the hill Singphos, Khamptis, Shams, &c. ; but of those retained for domestic and agricultural services in the Assamese low lands 7,500 were liberated by the advance of the British detachments, and negotiations were set on foot for the liberation of the rest.

During the civil wars and the Burmese invasion a great number of Assamese subjects fled into the Company's territories for protection, and particularly into the neighbouring district of Gowalpara. Numbers of the poorer orders fled with the rich, and being unable to support themselves, lived under the protection of the rich and worked for them, merely upon the condition of receiving food and clothing. Some embarrassment was afterwards experienced by the Magistrate of the Gowalpara district in settling the claims which were frequently brought by some of these refugees for the services of others of them as their slaves ; for though many of the poorer class were doubtless considered in their own country as slaves to those with whom they resided, many, it could not be doubted, were free, and in most cases no documentary evidence was producible by the claimants. Many Assamese slaves and bondsmen fled also into Jyntiah on the Burmese invasion.

Slavery in India, 1830. p. 30. 345 6.

Of the castes to which the Hindoo slaves usually belong, the Koch, Kyburt, Kalipia, Kolita and Napit, are considered pure ; the impure and inferior castes are the Chundal, Dome, Hira, Kumar, Jogee, Kacharee, Boreiyah and Burryhee.

There are many Mahomedans in Assam, some of whom are slave owners, and some are slaves. The Mahomedan slaves sometimes belong to Hindoo masters, but are employed only in out-door work. Sometimes also Mahomedan masters have Hindoo slaves, whom they do not convert but employ in out-door labour.

All the earnings of the slaves belong to their masters ; they are transferable property, and cannot obtain their liberty, except by the consent of their owner. Manumission is very rare. Captain White, in his Report on slavery in Lower Assam, says, " The slave owner becomes responsible for any debts that the slave may contract ;" but this perhaps is only under particular circumstances.

Appendix VI. No. 4.

All the domestics in Assam are slaves, and every man of rank has several in his family. Free servants can very seldom be hired ; female servants in particular, owing to the early marriages of the lower orders, are not procurable but at an

* This tribe had, about 30 or 30 years before, emigrated from the hills, and, with the permission of the Raja of Assam, settled at Laffa-bori on the Theinga river

expense insupportable by nineteen-twentieths of those who, agreeably to existing usages, require such attendants.

Every man also who has a farm must in general work it himself, as labourers can seldom or ever be procured either for a share of the crop or for money. The only assistance available is that of slaves, and a good many are employed by those who can afford to keep them. A very large proportion of the land, and all the land of the best quality, is held by Brahmins, who are also the principal holders of slaves. The late Commissioner, Mr. D. Scott, in his undespached Report, says, "The real value of slaves, except for domestic purposes, is very little, as farm business is conducted in Assam. They are usually exceedingly idle, and when they become numerous the master is even put to expense on their account."

Buchanan. Martin. vol. 3, p. 681.

There are many temples in Assam to which slaves are attached. These are never purchased on account of the temple, but are the gifts of pious individuals; persons having no relations occasionally presenting their slaves to a temple, whereby they become the slaves of the god. These slaves are employed for three months in the year in attendance at the temple, and have a right to share in the offerings during that time. During the other nine months they support themselves by their own labour. Their offspring are also slaves of the god. One of the temples of Kamakya possesses 20 or 25 slaves, and is endowed with 12 villages for its support, which are cultivated by free ryots paying rent.

The slaves are fed and clothed by their masters; who also provide for the expenses incidental to their births, marriages, deaths, and all other religious ceremonies, which they perform with the same regularity as the free population. The most usual way of maintaining slaves is by assigning them a portion of the master's estate to cultivate, the produce being divided between the master and the slave, and the share of the latter being sufficient for the maintenance of himself and family. If a person possesses many slaves he only requires the labour of a few in rotation, and allows the others to engage in the cultivation of lands, for the rent of which he becomes responsible, reserving to himself what profit there may be after allowing the slave a fair maintenance. In the poorer and middling families the slaves are fed from the family meal.

It appears to be the general opinion that the slaves in Assam are on the whole well treated. Complaints of oppression were not unfrequent immediately after our acquisition of the country, but on proof of the charge punishment was always inflicted on the oppressor, and they now seldom occur. On the other hand it is not unusual for masters to complain against their slaves for idleness or other cause. The geographical position of Assam operates as a practical check against any undue severity, for being a narrow valley between two ranges of mountains, a day's journey carries the slave beyond his master's reach. The real motive which now induces the slave to do his work is the fear of losing the advantages of his situation. We extract the following from the Report of the late Commissioner, Mr. D. Scott.

"In the poor and middling families the slaves and bondsmen are treated like the other inmates, the same mess serving for the whole household, and both mistress and maid being entirely clothed in homespun manufactures. Amongst the rich they often obtain great influence, and rule the family affairs in the capacity of dewans.

Such persons frequently possess, by sufferance, farms and slaves of their own, and they are sometimes to be seen in Assam riding in a sort of palankeen, dressed in English shawls, &c., in the style of the vakeels and officers of our Courts of Justice."

"The practice of making concubines of their female slaves, and of bringing up the offspring of such connexions along with their other children, is not uncommon amongst the nobles and even the Kings of Assam; to whom, in the public estimation, these domestics are often greatly superior in purity of birth, and the servile classes are consequently in general treated by their masters with a degree of consideration, familiarity and kindness, of which few examples are to be found in the intercourse between English masters and their hired servants. They are in fact regarded as adopted children, and the universal designation of a female slave in Assam is "*betee*" or daughter."

"That, morally considered, the slaves are in a certain, but small degree, degraded, must be admitted, and also that in Assam they are of more dissolute and depraved habits than the free population." "In physical condition it does not appear that the slaves are worse off than the peasantry of the country. If they cannot accumulate property (which however practically speaking is not the case) neither can they suffer those evils from the total want of it to which the freeman is subject."

The condition of the agrestic slaves is nearly on a par with that of the agricultural labourer. Their field labours do not exceed those of the Payiks, and the latter scarcely consider their condition at all inferior to their own, except that they do not possess their personal liberty. "Although," says the Magistrate of Lower Assam in 1830, "the condition of the slaves as compared with the mass of the community is scarcely inferior, yet with reference to its effects on society I am convinced the existence of slavery in Assam has had a most demoralizing tendency, as the course of my duty as a Magistrate has afforded me ample evidence, that whenever atrocious crimes were instigated by the higher ranks, the perpetrators have invariably been their slaves, and indeed it is very common with masters to employ their slaves in acts of theft and dacoity, reserving to themselves a share of the plunder."

Notwithstanding the generally favorable description of the condition of the slaves, it is evident that by many of them the state of thralldom in which they are held is felt to be irksome. "Hundreds," says the present Commissioner, "have and are yearly escaping into other provinces, or by taking refuge and becoming cultivators in the retired wastes of this province." The Magistrate of Lower Assam also, in his Report of 1830, stated that there were many complaints of their running away.

For a master to sell his slaves is considered highly discreditable, and indicative of his total ruin; such transfers therefore are not frequent, but they do occasionally take place when the owner is reduced to poverty and distress, and the masters possess, and in such cases exercise the right of selling the slave husbands, wives and children, to separate bidders, without reference to the consent of the parties sold.

The prices of slaves vary in different parts of the province, and are regulated by their physical and moral qualities, and in respect of such as are required by Hindu^s

for domestic purposes, by their caste. The following, according to one officer, are the prices in three of the districts, for slaves of the Kolita, Kayet and Koch castes : Slavery in India, 1838, p. 353.

	<i>Men.</i>	<i>Boys.</i>	<i>Women.</i>	<i>Girls</i>
District of Durrung	20 Rs.	10—15 Rs.	15 Rs.	8—12 Rs.
———— Kamroop	40	15—20	20	12—20
———— Nowgong	20	10—15	15	8—12

The prices of the inferior castes, viz. Jogeas, Domes, Kacharees, Boreiyahs, and Burryhees, are one third less. The range of prices is stated by other officers to be from 10 or 15 to 50 or 60 rupees.

Mention has already been made* of the traffic in slaves which used formerly to take place between Assam and the neighbouring districts of Bengal. In the year 1825, on the occupation of the province by the British troops, a great number of Assamese, being in a state of starvation, parted with their children for a trifle or even gratis to any one who would undertake to provide for their immediate wants ; and many of these children, chiefly boys of good caste, were purchased by the native civil and military officers, sepoy, merchants, and others then in Assam, for the most part as domestic servants, and whom no doubt they brought away with them on quitting the province. Many are still purchased and brought to Bengal in the same manner by native civil and military officers. Formerly also the Garrow mountaineers in return for salt from Sylhet, and the cotton from their own hills, which they imported into Assam, used to take back slaves. These were chiefly Garrows who had once been converted to Hinduism, but had lost caste by impure feeding, and who were sent back among their impure countrymen as a punishment for their transgression. The exportation of slaves from the province for the purpose of traffic has been prohibited since the British acquisition, but it is stated still to exist.

Ditto, 1838, p. 381.

Buchanan. Martin, vol. iii. p. 694, 695.

The following account of the usages of Assam relative to the marriages of slaves was given to the present Commissioner by a well informed native gentleman. " The price of a slave girl who shall marry the son of a slave living in the same house with his master, shall be paid by the master of the slave to the owner of the girl. If a ryot wishes to marry a slave girl, the owner of the girl shall give such ryot five rupees as a bond that all the offspring of the connexion shall belong to the master of the girl ; and, in the event of their separating (from whatever cause,) the man is entitled to the five rupees, with all the profits he may, through industry, have accumulated with that sum." " Slaves living on farms, and cultivating lands, may marry their daughters to ryots, and may take in marriage the daughters of ryots ; and if no agreement is entered into with the owner, the offspring of the connexion shall be divided into four lots, two and a half (putting a value on the half share) of which belong to the owner, and the remainder to the husband of the girl."

Slavery in India, 1833, p. 353.

" By the Hindu law," says the late Commissioner Mr. D. Scott, " a free woman marrying a slave becomes herself a slave, and gives birth to a servile progeny ; but although this is the law both in Bengal and Assam, masters in the latter country frequently permit their slaves to marry free women upon a special contract with the girl's father that the progeny shall be free. In cases of doubt the ordinary rule is, that the

Appendix IV. No. 5.

children follow the condition of the parent with whose relations the family resided ; a female slave giving birth to free children if she marry a free man and reside in his house ; while they would be slaves if the husband went to live with her. A good deal of litigation," he adds, " takes place in Assam on this subject ; and as the pergunnah Chowdries and corporations are very jealous of the abstraction of any portion of the male population and their detention as slaves, which would exonerate them from the payment of their quota of the pergunnah rate, there is no danger of a man being unjustly debarred of his freedom ; and it even sometimes happens, that a person who professes himself to be a slave, is emancipated by a decree of Court at the suit of the pergunnah corporation, a fact which of itself shows how trifling an evil servitude is considered in Assam." The same officer remarks in another place, that " it is a very common practice in Assam for masters to allow their female slaves to take husbands who are not slaves, denominated Dhoka, when the connexion is avowedly conditional and temporary."

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The present Commissioner is of opinion that the female slaves are usually married, and that there is very little open or regular prostitution for hire in the province ; but the Magistrate of Lower and Central Assam, in estimating the total slave population from the number of adult slaves in that portion of the province in 1830, allowed only for a quarter of the latter being married ; and the Magistrate of Gowalpara states that 99 out of 100 prostitutes, both in Gowalpara and Assam, are slave girls or bondswomen, and the expressions used by him would seem to indicate that many women of those two classes are compelled to prostitution by their owners. Another officer observes, that the condition of the mother is the only criterion as to that of the offspring in Assam, " where to prove the father of a child begotten on a female slave would be difficult indeed."

Ditto, p. 339.

Ditto, p. 335.

There are two descriptions of conditional slavery in this province. One the status of the slave called in the Hindoo law '*Bhakta Dasa*' or slave for his food. Of this class there were in 1830 3 or 4000 in Lower and Central Assam, who had voluntarily placed themselves under the protection of the great men of those portions of the province, and worked upon their estates, receiving nothing but their maintenance and being at liberty to depart when they pleased. It was supposed that this arose from the disturbed state of society prior to the British rule, and was expected to diminish under a better regulated system. The other exists in two forms: viz. when either for a previous debt which he is unable to pay, or for an advance of money to meet some emergency, a free man mortgages his services for a specific number of years, as 7, 14 or 20 years ; or, as in South Behar, until the debt be repaid, in which event he regains his liberty. This system prevails to a great extent in Assam, though less, it is stated, in the district of Durrung than elsewhere. In 1830 there were 4000 persons in Lower and Central Assam who had mortgaged their labour for specific periods. Several European settlers here had recourse to this method of obtaining labourers, but their bondsmen have generally deserted, and they have found it impossible to trace the fugitives, from the backwardness of the natives to aid them in their search.

The following were the usages relating to bondsmen under the former Government, according to the native gentleman's Report above noticed. No bondsman could leave his master but in the months of Magh and Phalgun (February and March),

consequently could not be engaged but in those two months. A man bound down with 20 rupees was entitled to the produce of one doon or one quarter of a poorah of land of rice from his master. A man bound for more than 20 rupees was entitled to three poorahs of dhan a month, and three pieces of cloth yearly. If any loss accrued to a master from a bondsman, unless owing to ill health, the bondsman was bound to pay an interest of one anna for every rupee; and in the event of his death his heir was bound to serve in his stead, until he paid the money. The late Mr. Scott, in a letter to Government dated 24th March 1830, said, that the bondsman being considered as a free man, the poll tax leviable in lieu of service was demandable from him or his master, as from other individuals; but in the Report just quoted it is stated that "no tax was levied on bondsmen by the Raja."

According to the Magistrate of Durrung, all bondsmen receive their food and clothes from the mortgagee, and when they have a family they also get a portion of grain for their support; they can at any time on discharging their debt obtain their release, and on their death the bond becomes void. But it is clear that on the last mentioned point the usage was as previously stated, viz. that the heir of a deceased bondsman was held answerable for the debt; and this circumstance occasioned the status of bondage in most cases to degenerate practically into that of slavery, for we find it stated, that though the greater number of bondsmen in Assam had become so for sums under 30 Rs., the obligation had, from the poverty of the debtor party, descended from parent to child for several generations.

Captain Bogle, the Magistrate of Kamroop, mentions, that "the illegal proceedings of parties employing bondsmen have frequently been of such a character that they have not even attempted to defend them when once brought under investigation, but have resigned all claims to further servitude." "I have known instances," he says on a former occasion, "in which not only men and women were retained in a state of slavery for their life time for a very small sum, but their children also, unless a fortunate chance placed it within their power to pay off the original loan with interest, which, considering the high rate of interest in Assam (48 per cent,) can but rarely happen." And again in his evidence he says, "In consequence of the ignorance of the bondsmen, and the power and injustice of those to whom they were bound, it frequently happened that though a man had bound himself for not more than 8 rupees, yet his son and grandson remained in bondage. In fact, if a bondsman died without having discharged his debt, the master seized upon his nearest relation and compelled him to serve so long as the debt remained unpaid."

Appendix VI. p. 341.

Ditto, p. 313.

No. 35.

In Gowalpara, the portion of Rungpore contiguous to Lower Assam, the system of bondage had the same pernicious results, as has been before shewn.*

We shall now mention the rules which have been made by the British Government and by the Commissioners of Assam on the subject of slavery and bondage since the acquisition of the province.

On the 10th April 1829 the Government resolved, on a reference from the Commissioner, that the orders of Government passed many years ago, "prohibiting

the sale of slaves for arrears of revenue, are to be held applicable to Assam is common with other parts of the British dominions."

On the 26th of February 1830, in reply to another communication from the Commissioner, that officer was informed, that the above orders were not intended to apply to the sale of slaves in satisfaction of decrees of Court, and that it was considered inexpedient that Government should interfere in that matter. Such sales therefore continued to take place, according to former usage, until 1834, when, on the occasion of considering certain rules of practice proposed by the then Commissioner for the guidance of the Courts, including some relating to the system of bondage and for gradually emancipating the slaves pointed out for sale in execution of decrees, the Government informed him, by a letter dated 25th August 1834, that "the subject of the state of slavery and bondsmen would be taken into consideration hereafter," and directed that "in the meantime the Courts should abstain from selling slaves in satisfaction of decrees, or for any other object." The Hon'ble Court of Directors, in their dispatch dated 3rd January 1834, remarking on the previous determination of Government on this subject, observe, "We are hardly prepared to sanction the rule you have adopted, of allowing slaves to be sold by public auction for the benefit of private creditors."

Slavery in India, 1838,
p. 6.

No. 35.

The prohibitory orders of Government regarding the public sale of slaves, either for arrears of revenue or decrees of Court, were circulated to the local officers in September 1834, and were "followed," says Capt. Bogle in his evidence, "by a great decrease in the value of slaves."

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No. 10.

In a letter dated the 4th February 1830 we find the Commissioner instructing the Political Agent in Upper Assam to open a register for the period of six months for the purpose of recording the names of all the slaves within his jurisdiction, and to issue a proclamation notifying that all persons remaining unregistered on the expiration of that period would be held free. This Regulation, he states, had received the sanction of Government; and it appears from the evidence of one of the witnesses that all sales of slaves, as well sales of free children by their parents, as sales of slaves by one master to another, are registered at the office of the head station of each district.

Appendix VI. p. 338.

In July 1833 the Commissioner authorized a proclamation "prohibiting the sale or mortgage of any individual, a native of Assam, to a foreigner, under pain of being punished by a fine not exceeding 100 Rs. ; or in the event of the person so sold or mortgaged having been removed from his or her residence in progress to another country, by imprisonment for a period not exceeding six months."

Regulations X. 1811, and III. 1832, are in full force in Assam.

Ditto, No. 16.

Of the principles by which the Courts in Assam are guided in the determination of suits relating to slavery the Commissioner says, "in the absence of any defined Regulations regarding the rights of masters and slaves, the Courts under me would require on disputed points the opinions of respectable inhabitants of the province. There are, I conceive, cases in these districts in which slaves can acquire and inherit property, but under other circumstances any property they may acquire would be considered to belong to their owners. The relative rights of masters and slaves are however, I believe, in this province more dependant upon local customs than on Mahomedan or Hindoo law; for neither system of law has had

more than a partial prevalence in Assam, nor been introduced in a large portion of the province but of late years, and a considerable part of the inhabitants are neither Mahomedans nor Hindoos."

"In regard to criminal cases I consider the Courts would take the same notice of maltreatment of slaves by their owners as of servants by their masters, and in certain cases of gross ill treatment would release the slave, under the precedent of the decision of the Nizamut Adawlut in the trial No. 67, 1805, quoted by the Law Commissioners, though I am not aware of any case in question."

The officer in charge of Lower and Central Assam, in a Report dated the 9th August 1830, says, "The masters are understood to possess the power of inflicting corporal punishment;" but it does not appear that this power has been generally acknowledged by the Courts. Capt Bogle states in his evidence, that since the acquisition of the province by the British Government the masters have never been permitted "to punish their slaves more severely than a father may punish his child;" and the practice which prevailed among the principal people previously to our rule of keeping stocks in their houses, into which they put their slaves, or any poor person who offended them, has been since disallowed. "I do not consider," he says, "that by law the master has any power of punishing his slave by beating; but no doubt if a slave complained, and it turned out that his master had only given him a slap, the Court would scarcely think the case worth noticing. I think that an act abolishing the master's power of punishment altogether would make no change in the law of Assam."

Appendix VI. No. 4.

No. 35.

Formerly it appears to have been the practice of the Criminal Courts in Assam to restore fugitive slaves to their masters, but the Commissioner says on this subject, "When slaves leave their masters their recovery by their owners is very difficult, the slaves in such instances mostly appealing to the Magistrate and affirming that they have been detained unjustly in slavery, or denying that they ever have been slaves, on which the Magistrate frequently refers the owner to a civil suit to establish his right to the person he claims as a slave."

Slavery in India, 1836, p. 80-81.

Appendix VI, No. 16.

On the 20th January 1835 this officer applied to the Presidency Sudder Court for instructions how "to proceed in the case of individuals asserting that they are detained in slavery although neither born slaves nor purchased," adding, that many such cases are brought forward in Assam and North East Rungpore, and that the persons are probably often illegally detained in bondage, but are unable to prosecute suits for their liberation. In reply, he was informed by the Court (the Sudder Court at Allahabad concurring) that "if the party, alleged to be a slave, complain that he is detained by violence, the enquiry should in the first instance be entered into in the criminal department, and if violence be proved, redress should be afforded to him, and the opposite party referred to a civil action to prove his claim."*

Construction No 939. March 20, 1835.

In June 1836 the Political Agent in Upper Assam having issued an order, founded on an application made by one of the Kampti chiefs, for the surrender of a

Slavery in India, 1836, p. 9, 10, 80-81.

* It may be remarked that this determination of the Court, though in answer to a particular reference, forms a precedent for the guidance of all Magistrates subject to the control of the two Sudder Courts.

fugitive slave belonging to him, he was called on by the Government of India to explain his reasons for having done so. He stated in answer, that ten years previously the British Commissioners, Mr. D. Scott and Colonel Richards, had issued a proclamation notifying that the right of the Assamese to a property in their slaves would be respected; that it was the practice of the Courts both in Lower and Upper Assam to restore fugitive slaves to their owners, and that the same course had been followed with regard to the Kampti chiefs.* He was informed in reply (Sept. 12, 1836) "that it is the wish of the Governor General in Council, that all functionaries should consider it as a general rule to refrain from any summary interference for compelling the return to a state of slavery of individuals who may have effected their escape from it. Every individual must be presumed to be in a state of freedom until the contrary is proved; and where rights are claimed affecting his freedom, there seems to be no reason why the claimants should have greater facilities afforded them than in ordinary cases. As the law stands, it may not be proper to reject a regular suit instituted to prove the right of one individual over the labour or person of another, but the plaintiff should at least be required to fulfil completely all the conditions which the law requires in the establishment of his claim." A copy of these instructions was at the same time forwarded to the Agent of the Governor General on the North East Frontier for his information and guidance.

Appendix VI. No. 19.

We have recently received from the Government, for our information, a reference, dated 20th May 1840, from the last mentioned functionary, as to the course to be pursued regarding some fugitive slaves claimed by certain Singpho chiefs, who had removed from the Burmese territory into Eastern or Upper Assam. These slaves, it appears, are either captives formerly taken away from Assam by the Singphos or Burmese, or their descendants, either by Assamese parents on both sides, or by Assamese mothers and Singpho fathers. Some of them had been obtained by an after capture, having been intercepted on the Burmese frontier whilst endeavouring to escape back to Assam. Others, after effecting their escape from the Burmese territory, had taken up their abode at the first Singpho village on this side the frontier that could feed and protect them, and had become the servants of those who had received and sheltered them. The remainder had continued with their masters from the time the latter had removed into the British territory without having before made any attempt to obtain their freedom.

The abuse of the system of bondage, which has already been described, having been brought to the notice of the Commissioner, Mr. T. C. Robertson, by Capt. Bogle, the following rules were framed by the former in February 1834 for the guidance of the Courts on this subject.

"1. If any individual has become or shall hereafter become bound to serve another in return for a certain sum of money during any clearly specified term of years, such a transaction shall be accounted legal, and be upheld accordingly.

2. If, however, any individual has become or shall become bound to serve in like manner for an unlimited term of years under a general condition that his or

* It appears from this answer that the British Government allows the Kampti chiefs to manage the internal affairs of their tribes, but reserves to the Political Agent, or the officer commanding at Suddiya, the cognizance of heinous offences, and the investigation of complaints preferred against the chiefs themselves.

her bondage is to continue until a certain sum of money be repaid, then, on a suit being instituted by a person so situated for his or her release, the Court before which it may be tried, shall, after fixing the price of the plaintiff's labour and deducting therefrom what may be esteemed a fair equivalent for maintenance, carry the balance to the credit of the plaintiff. Whenever the sum total thus credited shall suffice to extinguish the original debt with legal interest; or whenever a plaintiff shall pay up whatever may be wanting in the amount thus carried to his or her credit to effect such extinction of the said debt; in either case the Court shall award to such plaintiff an entire discharge and liberation from his or her bondage.

3. To prevent protracted investigations, as well as to protect masters from vindictive prosecutions, it is further enacted, that no master shall be required to account for any sum that may be carried to the credit of a plaintiff under the provisions of this rule in excess of the amount of the original debt with legal interest, and that no suit shall be entertained that may be instituted by a liberated bondsman for an amount alleged to be due to him on account of labour performed during the time of his bondage."

On the receipt of these instructions the Officiating Magistrate of Durrung (Licut. A. Matthie,) introduced fixed rates and rules for the guidance of his Civil Courts in these cases; which are as follows:

"1. That all persons who may have mortgaged or bonded themselves or another to a creditor for any specific sum, shall be entitled to their release at any time the mortgagers may pay down the amount they originally borrowed with the legal interest of 12 per cent. per annum.

Slavery in India, 1838, p. 356.

2. That the mortgagers shall be entitled to a remission on the original debt of 1 rupee per mensem, for the services they, or the person they have mortgaged, have rendered to the mortgagee from the date of entering his service, provided the bondsman has been fed and clothed either by the mortgager or himself. Should the mortgagee have fed and clothed the bondsman, then, instead of getting a remission of 1 rupee for his services, he will only be entitled to 4 annas per mensem."

These rules, says Licut. Matthie, "have operated with great advantage; and to prevent any dissatisfaction or injustice, I framed them on the opinion of the natives residing in my district, which are now thoroughly understood, and taken advantage of by the unfortunate subjects for whose benefit they were made."

In the district of Kamroop in April 1837, 211 cases had been decided under the Commissioner's 2nd rule, and 355 were nearly ready for decision. A great many bondsmen have obtained their discharge under the operation of it.

Appendix VI, p. 341.

In a letter from the Magistrate of Durrung, dated 29th April 1837, we find mention made of another "rule of the late Commissioner which required a limit (of time) to be specified in the bond (for service) to make it legal;" and he gives the following specimen of a bond put in for registration to shew how far it is attempted to carry the system of bonding without infringing the rule. A, B, C and D, who are relatives, are indebted to E 19 Rs., therefore A, at the request of B, C and D, borrows that sum from F, and in lieu of repayment becomes his bondsman for 41 years, on the conditions, that F shall feed and clothe A, and A, according to custom, shall promptly obey all F's orders; that on the expiration of the above period A shall be entitled to his release, the money lent being considered as

Ditto, p. 336.

liquidated by his services; but if A die before the expiration of the period, either B, C or D who may survive him shall become F's bondsman, and work out the unexpired portion of the term. In the event of issue by A and any of F's female slaves A disclaims all right to them, and they shall be F's property.

The annual statements on the administration of criminal justice in Lower and Central Assam shew the following cases relating to slavery and bondage brought before the Police authorities in those portions of the province during the years 1836, 7 and 8.

Illegal purchase of slaves in contravention of Regulations X. 1811, and III. 1832	18
Selling free persons into slavery	1
Selling persons	2
Forcibly carrying away 10 (native) British subjects to make slaves of them	1
Detaining persons as slaves	4
Detaining persons in slavery and bondage	60
Illegally and forcibly making individuals bondsmen	2
Forcibly selling a slave	1
Forcibly keeping or detaining slaves	23
Violently keeping in custody and taking away slaves and property	31
Enticing away slaves	4
Decoying slave children and servants	21
Slaves deserting with property	26
Escape of bondsmen	2
Not paying bondage money	1

ARRACAN.

The Judicial Functionaries in this province are subject to the control and superintendence of the Courts of Sudder Dewanny and Nizamut Adawlut at Calcutta, to be exercised in conformity with the instructions of the Government of Bengal issued to those Functionaries.

Slavery in India, 1838,
7.

From a Report of the Commissioner of Arracan, dated 18th October 1831, it appears, that three classes of slaves were recognised in Arracan under the Burmese Government.

"The first class, or "Pho-byng Gounthee," i. e. one subjected to authority and domiciliation, by reason of a price paid, comprises those who have become the property of their owner by purchase. The slaves of this description are foreigners, being either Hill-men and women or Bengalees, which latter were captured in former times by pirates or kidnappers, who formed expeditions to Hutteeah, Sundee, and the Soonderbuns in the neighbourhood of Backergunge, for this purpose, and sold their prisoners on their return. It has been said that this practice was first introduced by the Portuguese pirates. The slaves of this

denomination can possess no property. Their masters are answerable to the Legislature for crimes committed by them; they are the heritable property of their owners, who may punish them in any way not affecting life or limb; they may be transferred to others in perpetuity, or for a limited period, the party to whom they are transferred becoming vested with the powers of the former for the time being; they may be manumitted, but cannot otherwise obtain freedom, with exception to girls, who, having been seduced by their master, are considered to become free women on the birth of a male child to him."

"The second class are called, "Khaing daug boh," or born in the house. These are the descendants of the first class, and are subject to all the restrictions under which their parents existed. If a slave of either of the two first classes be given by his owner to a Phoongree or priest, he becomes dedicated to religious purposes; and, as a Phoongree cannot accept money, or buy or sell, his state of slavery is perpetual. He is called "Keeoong Thankeeda," or sweeper of the temple."

"The third species of slavery is called "Cheet-peca-lara," or the escaped from battle taken by the hand. These are entitled to manumission after occupation of a country, or after peace has been concluded; but they are not unfrequently sold, especially when they are too young to know their rights. If they become acquainted with them, and prove in Court that they have never belonged to either of the two first classes, they may recover their freedom."

The predatory expeditions which are stated to have been the principal origin of slavery in Arracan, were not confined to the lowlands. The hill tribes lived in a state of constant warfare with each other, and their chief object therein was to secure prisoners for the purpose of enslaving them. This is still the practice of the tribes beyond the British frontier, but there has not been an attack by one tribe within the border upon another so circumstanced for more than two years.

Notes on a Journey up the Koladain river by Lieut. Phayre, Assistant Commissioner, December 1838.

A case of gang robbery occurred in the province, apparently in 1834, in which the dacoits attacked a village in the day time, murdered four men and nine women, and carried off twenty females as slaves, two of whom were disposed of to two persons residing in the Chittagong district.

Slavery in India, 1838, p. 344-5.

When Arracan was taken possession of by the British army, a great number of the natives of Munnipore were found there in state of slavery. These had been carried away from their country on the invasion of it by the Burmese troops, among whom were a large portion of Arracanese, who, according to the Burman custom of enslaving the inhabitants of an invaded country, brought down to their homes such women and children as they could capture. Many also were disposed of by the Burmese to the Arracanese about Ramoo and the southern parts of Chittagong when the Burmese force retreated from thence, and at Akyab and other places on the coast. Some of this race had likewise been sold by their parents in times of want and distress. All had adopted the customs and manners of the Arracanese, and had no inclination to return to their own country, where they would in all probability have been considered and treated as out-castes.

Slavery in India, 1838, p. 2. 3. 6. 43-51.

On the organization of the Mugh corps many of these Munniporees deserted their masters and enlisted in it. Claims were sometimes preferred by their owners for their being given up, but these were resisted by the Commandant, and a com-

promise effected between the parties; the persons claimed agreeing to give to the claimants a certain portion of their pay, two, three or four rupees per mensem, according to the circumstances of the individual, until the sum fixed upon should be liquidated. Suits were also frequently instituted in the Civil Courts for the surrender of these men, but generally discouraged by the local authorities, and referred to the Commandant of the corps for adjustment. The number of these people belonging to the corps in October 1831 was seventy-two. Not one of them, however, acknowledged himself to be a slave, and having, so far as could be ascertained, been taken by the Burmese during war, they were entitled to their freedom on peace being made. Those who enlisted did so, it was supposed, in order to secure themselves against claims upon them as slaves; and although they denied being such, they appeared to consider themselves under some obligations to their former owners or protectors who had supported them in early life, and were willing to discharge the obligation by the payment of small sums from their monthly allowances. At the above date there were no Munnipore sepoys in the corps making such payments. According to the information of these men the number of Munniporees detained as slaves in the districts of Arracan and Chittagong was about 3 or 4000.

Slavery in India, 1838,
p. 17-8.

A system of debtor slavery likewise prevailed in Arracan, which is thus described in the Commissioner's Report above quoted.—“The fourth are slave debtors, and called “Pongrhany,” or “Kccoong-bong,” or the pledged, in consideration of money paid. There are regular deeds subscribed by the parties, and attested by witnesses, specifying the period which the slave is to serve, and the amount paid. The slaves are free on liquidation of their debt, or the money paid for them, or on the expiration of the period they had engaged to serve, according to the terms of the agreement.* A man may pledge himself or his children, and, with her consent, his wife also. These slaves may compel their master or mistress to transfer them to other persons who are willing to pay their original price, or the amount of their debt. If a married female debtor is seduced by her master, the sum of 60 rupees must be written off the debt;† if an unmarried female debtor slave cohabits willingly with her pledgee, no deduction is allowed. Slaves of this class may be corrected by the hand of their master or mistress (but not by others at their order), with a cane, with a bunch of rods, or with the open hand, but to such an extent and in such manner only as a parent would correct his own children. Wounds or mutilations inflicted by a pledgee, or by his orders, on his slave debtors, cancel the debt wholly, or in part, according to a table of fines for such acts in the Burman code.”

* The Officiating Magistrate of Akyab, in a letter dated 28th September 1833, thus describes the three classes of slaves in his district:—“1st, Phobyng, perpetual and hereditary; 2d, Appong, manumission to be obtained on paying the purchase money, which is on an average forty rupees; 3d, Monhe-tolling, a woman sells herself for say twenty rupees, she is obliged to serve the person to whom she mancipates herself for twenty years; she also receives at the expiration of each year one rupee, so that at the end of her servitude she will have been paid forty.”—Appendix VII. No 5

† In a paper written by Mr. Charles Paton, Sub-Commissioner in Arracan, we find the consequence of this illicit intercourse stated differently: “Should the woman (i.e. a wife) become pregnant whilst in pawn, the debt is rendered null and void, and the husband can redeem his wife, and if he chooses take the child also, and a fine of 60 rupees from the father.”—*Asiatic Researches*, vol. xvi. p. 374.

On the acquisition of Arracan by the British slavery and bondage were not found existing generally to a great extent. All civil rights had been reduced to a state of great uncertainty by the Burmese conquest in 1783, and the number of slaves seems to have much decreased in consequence. Witness No. 35.

They appear to have prevailed chiefly in the Akyab district, the Officiating Magistrate of which stated in September 1833, that there was hardly an individual, let his condition be what it might, that did not possess one or more of the three classes of slaves called Phobyng, Appong and Monlic-tolling.* Appendix VII. No. 5.

In the Aeng Division, at the same period, bondage only was common, and originated principally in the pledging of children by their parents, in consequence of want, or to "secure a retirement free from labor, which the parents thus enjoy at the expense of the freedom of their child," and not unfrequently to provide the parent with the means of gambling. 20 or 30 Rs. was the sum usually advanced for the services of one child. If misfortune befalls the family in which a child is pledged, and they are no longer able to keep it, they demand from the parents the sum advanced, who borrow it from another, and the child is removed as the security. In this Division also "female children were sold and bought to be maintained in a state of concubinage." Ditto, No. 8.

With regard to the treatment of slaves, the Officiating Magistrate of Akyab, in the letter above quoted, observes, "The Mughls, generally speaking, treat their slaves well, at least as well as their wives; which inclines me to think that few would avail themselves of their liberty; for it is only when a woman is cruelly beaten and ill treated that she flies to the Court for protection and release from thralldom."

The Senior Assistant at Ramree says in 1833, "It is the policy of the owners to keep their slaves as poor as possible to prevent any chance of their manumitting themselves." Ditto, No. 6.

Among the Kyengs slaves were allowed half the profits of their own labour. Ditto, No. 5.

Neither slavery nor bondage have been recognised by the Courts since 1834. In 1833 some correspondence took place between the local Superintendant and the Commissioner on the subject, and the result was that the Commissioner directed the Superintendant to declare all slaves and bondsmen free, if he thought he could do so with safety, and the latter officer issued a proclamation accordingly. Witness No. 35.

We have been furnished with copies of this correspondence, but not with the final instructions of the Commissioner, or of the proclamation issued in consequence. The propositions of the Commissioner were, in substance: Appendix VII.

1. To interdict the recovery in the Civil Courts of the persons of slaves, or any money or consideration claimed on account of the sale, purchase, transfer or mortgage of slaves.

2. That any persons petitioning the Criminal Courts for release from restraint imposed upon them on the pretence of their being slaves, should have their remedy by an order being passed to the effect that they are at liberty to go where they please,

* See note in the previous page.

and that any persons illegally restraining them will render themselves liable to punishment.

The Officiating Magistrate of Akyab stated in reply that he had acted thitherto on these principles.

The Senior Assistant at Ramree, after mentioning several cases in which he had liberated slaves, adds, "There is a practice amongst the Mughls of pledging their wives or children for the payment of a debt, which they maintain is not slavery. I have, however, most peremptorily prohibited it, allowing only the debtor to pledge his own body."

The Senior Assistant at Sandoway observed, "there is little or no slavery in this district, most of the slaves having been released on petition, and the few that remain continue in their state voluntarily, they being aware that they may be released on application."

Appendix VII, No. 9.

It appears also that in 1831 a proclamation had been issued by the Superintendent of Arracan, to the effect that any person refusing to receive the price of a slave tendered with a view to his release, should forfeit both the price and the services of the slave.

Regulations X. 1811 and III. 1832, were considered in force in the province prior to the proclamation of abolition.

Witness No. 35.

It is believed that many slaves and bondsmen left their masters in consequence of the proclamation, but that a considerable number still exist de facto. The condition of the slave, however, is not distinguishable from that of a free labourer. The proclamation occasioned considerable dissatisfaction, but no disturbance was created, nor was there any public demonstration. The agriculture of the country is carried on by very small proprietors, who hold the plough themselves. There is no want of free labourers; and even the sons of Soogrys, who are a kind of Tehsildars, and the highest class of people in the country, have been known in some instances to hire themselves as day labourers. At harvest time also a great many free labourers come from Chittagong, and return home after the harvest.

In the annual statements on the administration of criminal justice in this province for the years 1836 and 1837 we find the following entries.

District of Sandoway, 1837, 1 case of forcibly taking away a woman to sell her into slavery.

District of Akyab, 1836, 6 cases of illegal holding of slaves. 1837, 26 do. do.

District of Aeng, 1837, 9 cases of retaining slaves.

TENASSERIM PROVINCES.

The Judicial Functionaries in these provinces are subject to the control and superintendence of the Courts of Sudder Dewanny and Nizamut Adawlut at Calcutta, to be exercised in conformity with the instructions of the Bengal Government issued to those Functionaries.

Absolute slavery does not appear to have existed in the Tenasserim provinces under the Burmese rule; but a system of debtor slavery prevailed, of which we have

the following description in a paper drawn up by the present Commissioner on the subject.

"Though the system of slavery under the Burmese rule be nominally mere bond service, yet owing to the but little limited authority of the master, to the impoverished state of the country, and to the small chance of a debtor slave obtaining justice against his creditors in the Courts, it may be looked upon as real "slavery." The chief alleviation of such a state is derived from the slave having it in his power to transfer his services to another creditor, should he find one willing to pay the amount of his debt."

Appendix VII. No. 13.

"The nature of the slave bond is very diversified ; for general service, for house service, agricultural service, &c. Many are mere engagements to pay some enormous rate of interest by daily or monthly payments, and those of the former description are often changed into the latter ; the slave engaging, on being permitted to follow his own business, to pay so much a day out of his earnings. All these bonds are mere acknowledgments of certain debts, on repayment of which the slave again becomes free. These debts, augmented by the expenses incurred by the master on account of the slave for clothes and other items (not including food however,) descend to the children, whether born in slavery or not, and must be discharged by them either by payment or the substitution of one of them for the deceased parent. Children born in slavery become the slaves of the creditor, and are not released by the payment of the original debt of the parents. If grown up, the amount to be paid for such born slaves is 30 Ticals (Rs. nearly) for a male, and 25 for a female."

"In satisfaction of a debt, parents can sell their children, husbands their wives, heads of families their dependent relatives. The amount for which they are sold is considered their debt, for which they alone are answerable, and until it be paid to the creditor they and their posterity are his bond servants. On becoming a slave for a certain amount, it is a usual custom to provide security, and such security is answerable, not only in case of the slave absconding, but even on his death. These securities are generally relations of the slave."

"In Burman law the price of a male is fixed at 30 Ticals, and that of a female 25. These sums are constantly decreed in their Courts, in numerous cases. For such sums the children born in slavery can redeem themselves. A master having connection with his female slave against her consent forfeits 25 Ticals from the amount of her debt. These sums are also made use of in apportioning the children of slaves where the parents belong to different creditors."

"In stating however what the law may be in the several cases relating to slaves, or indeed to any other subject, we are too much in the habit of attaching our own ideas of legal rights of persons. Slaves may be looked upon in Burmah as the property of their masters as much as the cattle in their fields, and though generally their condition is far from being one of hardship, or looked upon as a disgrace, yet once slaves they have but a slender chance of ever manumitting themselves."

The following Regulation for the amelioration of the condition of the debtor slaves was issued by the late Commissioner in February 1831. The provisions are the same, with some modification, as those passed by the Government of Penang in May 1820 respecting debtor servants.

Slavery in India, 1838,
p. 453-4.

“1. Notice is hereby given, that from and after this date no contract or agreement binding persons to serve in the capacity of debtor servant, in consideration of a sum advanced for their labor and services, shall be valid, unless such contracts or agreements shall be acknowledged by the contracting parties before the Commissioner, his Deputy, or Assistants. These contracts shall be regularly drawn out, and entered in a register to be kept at the yom, and the debtor servant furnished with a copy of his contract, signed by the Commissioner, his Deputy, or Assistants.

2. The contracts so registered shall specify, as far as possible, the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude, with the sum which shall tend towards the monthly liquidation of the money advanced to him or her, and which sum shall on no occasion be less than two pice per day. No youth of either sex under the age of sixteen years shall be deemed competent to enter into a contract for future services.

3. No parent or parents shall be allowed to mortgage the labor or service of his, or her, or their children; and no children of debtor servants shall be liable for the debts contracted by his, her, or their parents for the mortgage of his, her, or their labor or services. The children of all debtor servants are free: but if the father and mother be unable to support their offspring, the master or mistress shall be entitled to the gratuitous services of the children so supported until they attain the age of 16 years, as a recompense for the expence incurred in their maintenance. But no master or mistress shall transfer or mortgage the labor or services of such children.

4. In case of the death of the master or mistress, the debtor shall have the option of repaying to the estate such sum as the Commissioner, his Deputy, or Assistant, may conceive equitable for unexpired services, or serve out the remaining period with the legal representative.

5. No debtor servant shall on any occasion be transferred to another person by his or her master or mistress, unless the terms of his or her contract included such provisions.

6. In the case of females mortgaging their labour or services, their debt shall be cancelled by the Commissioner, Deputy, or Assistant, in every instance of its being proved that the master has cohabited with her, or that her master or mistress has been in any manner accessory to her prostitution.

7. Whenever it shall be proved to the satisfaction of the Commissioner, his Deputy, or Assistant, that any debtor servant has not been provided with proper food, clothing, or habitation by the master or mistress, or has been otherwise treated with inhumanity or cruelty by him or her, the contract or debt of such servant shall be cancelled, in addition to such other punishment as the Commissioner, his Deputy, or Assistant, may deem necessary on the master or mistress.

8. If a debtor servant fail to serve with fidelity, or has been neglectful from improper or vicious habits, the Commissioner, his Deputy, or Assistant, on such being proved, shall punish the party in the same manner as in the case of a common servant so offending.

9. No contract or agreement binding persons to serve in the capacity of a debtor servant, in consideration of a sum of money advanced for their labor or ser-

vices, shall be valid, unless the amount so advanced be paid in the presence of a Magistrate to the persons mortgaging their services.

This Regulation, says the present Commissioner, "so far modified the state of debtor slavery, as it existed under the Burmese rule, as to reduce it to mere domestic service paid for in advance;" and he adds, "Even the modified system of debtor service introduced by us is now fast disappearing, and though I am in possession of the sanction of Government for doing away with it altogether, yet I think it preferable to allow it to die a natural death, as the people are fast evincing a sense of its inapplicability to their improved state under our Government."

The following statement exhibits the cases connected with this Regulation brought before the Criminal Courts in the years 1836, 1837, and 1838.

<i>District of Amherst</i>	1836.	1837.	1838.
Breach of Local Debtor Servant Regulation ...	4.	4.	0
<i>District of Mergui</i>			
Absconding from service or not working, ...			
being debtor servant	2.	2.	5
<i>District of Tavoy</i>			
Absconding from service, or refusing to work ..			
as registered debtor servant	„	1.	4
Haibouring runaway debtor servants.	„	„	2

PRINCE OF WALES' ISLAND.*

Pulo Penang, since called Prince of Wales' Island, was ceded to the East India Company by the King of Queda in the year 1786. By another treaty with him in 1800, the Company became possessed of the tract of coast opposite to the Island on the Malayan Peninsula, called Province Wellesley.

When the island was taken possession of, the only inhabitants were a few Malay fishermen. But so early as 1787 slaves had been imported and become the subject of traffic, and the Superintendent reported that "a register was kept of all slaves bought and sold here."

It was one of the original conditions stipulated by the King of Queda, that "all slaves must be returned to their masters for they are part of their property." And in an agreement concluded with him in 1791 an article was inserted that "all slaves running from Queda to Pulo Penang, or from Pulo Penang, shall be returned to their owners. Upon this article the Superintendent remarked that it was "for the mutual benefit of both parties."

But a question soon arose, to whom the term slave should be considered applicable. The Superintendent thought it could be applied only "to a person legally sold, or to one condemned to slavery for crimes." The King of Queda extended it "to such people as had taken refuge in his country from war or famine, and to debtors to his merchants."

* In 1830 the Settlements of Prince of Wales' Island, Malacca and Singapore, which before were incorporated under a separate Government, were annexed to the Presidency of Bengal.

† It appears from the President's minute, April 1820, that a duty was collected on the value paid for the slaves registered.

Slavery in India, 1828, p. 419.

p. 422.

p. 420.

p. 424.

p. 425.

p. 424.

p. 436.

The Bengal Government directed a declaratory article to be annexed to the treaty specifying the persons to be considered as slaves, and desired that the term should be taken in the most confined sense.

p. 435.

About the same time certain Malays of Arabian extraction, of considerable fortune and with large families, came to reside at Penang, but before settling they requested "a license to govern their own families, slaves, and dependents, with an independent power, and in all cases to be judged by the Mahomedan laws."

p. 436.

The Superintendent answered that they could not have "an entire independent authority ; but that "a reasonable, and so far as the general welfare would permit, an independent authority, would be allowed them over their families and dependents ; that their religion, laws, and customs, would be undisturbed, and that they might inflict any punishment upon their children and family, except mutilation or death," but that in cases "requiring more than a whipping, the culprit should be committed to prison and tried by the laws of the island. And if the case concerned one of their people, and one of the inhabitants, or if any of their people committed a public breach of the laws they should be tried publicly." This answer was approved by the Government, who observed "that the exemption required by the Malays relative to instituting a sort of arbitrary domestic police, was repugnant to reason and subversive of the rights of society."

p. 439.

The Judge and Magistrate of the island, in 1802, addressed the Government of Bengal on the subject of the slavery existing there. He said that slavery limited, and unlimited, had been tolerated,—the emigrants from the Malay Peninsula and the Eastern islands who had become inhabitants of Prince of Wales Island, having been permitted to retain in slavery those whom they had brought as slaves thither, some in utter slavery, others only in limited servitude, the latter being the condition of those styled slave debtors, people that voluntarily become slaves to their creditors till their debts are paid ; but that the practice had not been expressly authorized by any Regulation : that a decree however had lately been passed by which slavery was recognized, and it was necessary therefore that Regulations should be made, defining the right of the master over the person and fortune of his slave, and that the case of the offspring of slaves should be considered, particularly of those born of one parent who is free, while the other is a slave.* To this representation, the Government did not give particular attention, and the subject was dropped for a time.

p. 433.

But, in 1805, the Court of Directors, adverting to a Report by which it appeared that in 1801-2 there were upon the island above 1,200 slaves, intimated to the Government that they "could not authorize any encouragement being given to the introduction of slaves into the island," and expressed their "wish that the clearing of the lands and the cultivation of the pepper and other spices, should, as they understood they might, be carried on by free people." In the same year, the Governor General in Council,—observing that the number of male and female slaves at this settlement was understood to be then not inferior to 5,000,—and re-

p. 433.

* In the case decided it was proved, in the opinion of the presiding Judge, (the Lieutenant Governor) that both parents of the individual claimed as a slave were slaves, resident on the island, and it is to be inferred that the party was born on the island.

marking that, although the prejudices of our native subjects might on the continent of India forbid the entire abolition of slavery, the same objection did not appear to be applicable to Prince of Wales Island, which had been settled within 20 years,—expressed his opinion that it was desirable that the system of slavery there, should, if possible, be prohibited, and accordingly directed the Lieutenant Governor to consult with the best informed European inhabitants with respect to the means by which this measure could be accomplished, and to report on the subject for the orders of the Governor General in Council.

A plan for the abolition of slavery was proposed in November 1805, by the late Lieutenant Governor; but the consideration of the subject was not prosecuted by the Government until their attention was called to it by a letter from the Court of Directors dated February 1807, in which they observed that as the toleration of slavery could not be necessary at Prince of Wales' Island, where the population was already extensive and daily increasing, they considered it a subject deserving of serious notice, and directed that every means should be resorted to for effecting its immediate abolition, provided the public interests of the settlement were not materially injured; but even in that case they conceived, that an early period might be determined upon for the entire emancipation of slavery, after which, it ought by no means to be tolerated.

p. 431-5.

Mr. R. T. Farquhar.

p. 435.

Upon these instructions, the local Government gave earnest consideration to the subject. It was at first in contemplation to abolish slavery immediately, converting the existing slaves into debtor servants under an obligation to work for their masters till the debt charged upon them as the price of their freedom should be liquidated. But objections having been made by the native holders of slaves, a Committee composed partly of European gentlemen, and partly of natives, was appointed to consider those objections, and to report the measures that appeared to them best calculated to effect the object in view.

p. 435.

p. 437.

p. 440.

The majority of the European gentlemen of the Committee concurred in recommending the immediate and positive emancipation of the slaves, and the conversion of the slaves, as before proposed, into debtors * to their masters, for a certain sum respectively, to be fixed at a rate so moderate, that a debtor wishing to leave his master would not be likely to have any difficulty in procuring the loan of the amount from another, on a bond for service to him, or by contracting to perform some work, on account of which he might receive that amount in advance; with a provision, in the case of the debtor remaining in his former master's service, that a certain sum should be credited to him monthly and written off from the amount of his debt.

p. 440, 444.

* "A custom and usage, it was said, immemorially sanctioned and prevalent in the Malay countries and in this island since the formation of the settlement."

In Crawford's Indian Archipelago it is stated that a small class exists every where in the Archipelago called *debtors* in the native languages, "These are people who either voluntarily, or by the laws of the country, mortgage their services for a certain period, or during life, to discharge some obligation which they have no other means of liquidating. Their condition is in fact a mitigated kind of slavery."

See also Marsden's Sumatra, for an account of this kind of servitude—and p. 265. Slavery in India, 1828.

The Mussulman members of the Committee, however, objected absolutely to the emancipation of slaves.

Their objections, as stated by the European member of the Committee who dissented from the recommendation of the majority, were,

1st. That the abolition of slavery would interfere with their religious customs, particularly regarding their women, and that Mussulmans might as well be ordered to wear hats, (their own words) as be obliged to emancipate their slaves.

2nd. That it would interfere with the whole of their domestic arrangements, in as much as it is not customary amongst Mussulmans in Malay countries to order or exact from a slave debtor, or from a person receiving daily or monthly wages, that kind of domestic labour which they can exact from a slave.

3rd. That when they settled on the island, they did so on the faith and implied assurance, that their customs and usages would not be interfered with.

Considering the grounds of these objections, and "cautious of interfering in the domestic arrangements and customs of the various native inhabitants who had resorted to, and settled on the island, on the faith that such should not be interfered with," and apprehending that "to deny them those domestic privileges which though not openly allowed, were tacitly admitted elsewhere" in India, "would tend materially to affect the population of the island, by discouraging the general resort to it,"—it was thought by the Government to be inexpedient to proceed at once to *emancipate* the slaves: and it was resolved instead to make a Regulation, prohibiting the future *importation* and *transfer* of slaves, and declaring that children born in bondage after its date should be free; further providing that slaves might be *transferred as slave debtors*, and authorizing the Magistrates to liberate slaves kept for prostitution, and slaves treated by their masters with inhumanity or cruelty.

On the first establishment of the settlement, the Government of Bengal had ordered 150 Caffres* to be sent from Bencoolen for the purpose of clearing and cultivating the country. These Caffres, it appears, were slaves. Many of them were liberated immediately, as being unfit for work, provision being made for their maintenance by an allotment of land, and by continuing to them a small proportion of their former allowances. Those who remained were emancipated in 1808, the Government providing for the subsistence of the infirm and aged. The children born in the island, it appears, the first superintendent promised should be free.

In 1813, a further step was taken for the prevention of the importation of slaves by the publication of the slave trade act, 51. Geo. 3 C. 23. This was done by order of the Governor General in Council, who directed at the same time that proper measures should be adopted for giving effect to it.

* In Marsden's Sumatra the negro slaves or Caffres belonging to the India Company at Bencoolen are mentioned and described as a class of people "eminently happy above all others on earth." "They are well clothed and fed, and supplied with a proper allowance of liquor; their work is by no means severe," "they have no occasion of care or anxiety for the past or future." "Since they were first carried there from different parts of Africa and Madagascar to the present hour, not so much as the rumour of disturbance or discontent has ever been known to proceed from them." It is mentioned in a letter from the Acting Resident at Fort Marlbro' dated 2nd September 1812. [Slavery in India, 1828, page 203.]—that the slaves of the Company were at liberty to purchase their freedom at fixed sums, viz. Dollars 60 for each man or woman, and Dollars 40 for each boy or girl.

In 1820, the attention of the local Government having been drawn by a petition from certain Mahomedan inhabitants of the settlement, to a consideration of the customs relative to slaves and slave debtors, which had prevailed amongst them since the abolition of the slave trade,—the President in Council recorded a minute on the subject, in which he stated that abuses on the part of masters of debtor servants had come to his knowledge, which rendered him desirous of proposing Regulations for the purpose of protecting and ameliorating the condition of this class of people, and of preventing a usage sanctioned by Government from becoming a means of perpetuating and extending all the evils and horrors of slavery only under a different appellation.

Those persons, he said, who possessed debtor servants on the island “are often inclined to look upon them as in a state of unconditional servitude,” and “consider mere maintenance as an equivalent for the labours of the servant, and seldom look upon the sum originally advanced as affected or reduced in any degree by his services, whatever may have been their fruits or their length.” “The practice as then allowed, was also,” he observed, “liable to many other serious abuses. Children and minors may be transferred as debtor servants by people who have perhaps kidnapped them at the other islands. They may be transferred by their parents upon the payment of a trifling sum without any compact as to the nature, degree, and duration of the servitude, and be thus placed in a state little short of absolute slavery. Further, the ends of the parents on such occasions may be directed to their own advantage and not to the benefit of the children.” “And young women may be thus delivered over to the absolute disposal and caprice of a private master, and their labors converted into the means of gratifying his lust or avarice.”

The following were the Regulations he proposed :—

I. All contracts or papers binding persons to serve in the capacity of debtor servants, shall be acknowledged by the contracting parties respectively, before the Magistrate ; shall be drawn out in the English and Malayan languages ; and after being regularly numbered and set down in a register to be kept at the Police office, shall be delivered to the master and servant, stamped with the official seal of the office.

II. The contracts or papers so registered shall specify as far as possible, the nature and degree of the service to be performed by the debtor, and always fix a definite term of servitude with the sum which shall tend towards the monthly liquidation of the money advanced to him or her. These articles to be determined by the contracting parties before the Magistrate, who will of course regulate and control them according to reason and justice.

III. No youth of either sex under the age of 14 years shall be deemed competent to enter into a compact for future services unless with the consent of persons who prove that they are authorised by nature or law to contract for him or her ; and that they are engaging such youth with a view to his or her benefit, and not to that of their own ; and no minor's term of servitude shall be engaged to extend, if a male, beyond the period of his attaining the age of twenty one years ; or if a female, beyond the age of her marriage ; when such persons will be at liberty to renew their engagement, or otherwise provide for themselves.

IV. In the case of females so bound or apprenticed, their contract or debt shall be immediately cancelled by the Magistrate in every instance of its being subsequently proved before him, that the master has cohabited with her, or that he or her mistress has been in any manner accessory to her prostitution; such master or mistress will of course be further punished according to law.

V. Whenever it shall be proved to the satisfaction of the Magistrate that any debtor servant has not been provided with proper food, clothing, or habitation, by the master or mistress, or has been otherwise treated with inhumanity or cruelty, by him or her, the contract or debt of such servant shall be immediately cancelled, in addition to such other punishment as the Magistrate may legally inflict on the master or mistress.

VI. In the case of the death of the master or mistress, the debtor servant shall have the option of repaying to the estate such sum as the Magistrate may conceive equitable for unexpired services, or serve out the remaining period with the executor or legal representative; and no such debtor servant shall, without his or her own consent, be removed from the island, or be transferred to another person by his master or mistress, unless the terms of his contract included such condition.

VII. The children of all female debtor servants are free; but if the father or mother be unable, and the master or mistress of the female servants undertake formally before the Magistrate to support such offspring, they shall be entitled to the gratuitous services of the children so supported, until they attain the age of 16 years, as a recompense for the expense incurred in their maintenance.

VIII. If a debtor servant fails to serve his or her master or mistress with fidelity, or has become neglectful from improper or vicious habits, or if he or she occasions any detriment or injury to his or her mistress, the Magistrate on such being proved to his satisfaction, shall punish him or her in the same manner as the law provides in the case of a common servant so offending.

IX. The above regulations shall be translated into the different native languages and shall be always read at the Police office to all persons contracting for services before the papers are signed and sealed."

These rules were formed into a Regulation, and we presume that they are still in force with respect to persons belonging to the island. The *importation* of persons to be engaged in service under such contracts would appear to be prohibited* under the proclamation and orders of the Government of Prince of Wales' Island, Malacca, and Singapore, which will be noticed below.

With respect to persons already slaves, a question appears to have occurred to the Government when considering the state and condition of the debtor servants in 1820, how they should be regarded and dealt with by the executive authorities, "remembering that a British Court of Justice, which had entire jurisdiction over the island and its dependencies, could never recognize such a being as a slave, and that the Government had not the power of framing express regulations concerning

* It seems however from the information we have obtained from Mr. W. Young, that the prohibition is not understood to apply to Chinese.

slavery." This difficulty the Governor was of opinion " could only be obviated by suggesting to the Magistrate to regard persons, brought before him as slaves, under the denomination of debtor servants," and to apply the regulations for that class, and the principles on which they are founded, to such persons and their owners, as far as circumstances will admit : " of course," he observed, " this arrangement could not have operation on any person who was not actually registered as a slave before the publication of the order prohibiting their importation ; and it should be a standing rule with the Magistrate to afford to all slaves brought before him the liberty of redeeming themselves by paying to their owners a valuation regulated according to their relative age, condition, and length of service."

From 1820, therefore, it would appear that slavery has not been recognized as a legal condition in Prince of Wales' Island.

In Low's account of Penang published in 1836, it is observed that, in 1820 the Hon'ble Mr. Phillips the Governor of Penang, by humane and just Regulations, paved the way for the speedy extinction of slavery. This was chiefly effected by taking, as a stepping stone to the final object, the system, then coexisting with slavery, of selling service, or the debtor system, as it is here called. When at length slavery was abolished by act of Parliament, the system alluded to remained under the wise restrictions which had been established, and it still continues to operate but with diminished strength.

The author remarks that debtor servants, especially men, are indolent and improvident and the worst of laborers ; still the settlers from long custom do not seem yet quite sensible of their inefficiency,

As a system of labor he observes, it is expensive, dangerous, and demoralizing, it fosters idleness and represses honest ambition. The value of such labor can scarcely be put on a par with that of convicts. The system, he adds, seems already dying a natural death.

Province Wellesley, the tract of territory on the Peninsula, dependent on Prince of Wales' Island, we understand, is governed by the same laws and regulations as the Island. The superficial extent of this tract of territory is estimated at from 120 to 150 square miles, and the population at upwards of 47,000. It lies within the jurisdiction of the Court of judicature for the Straits settlements. The principal Assistant there, for the time being, independent of his political and executive duties, exercises the functions of a Magistrate, a Commissioner of the Court of Requests, Police Superintendent, Coroner, and Collector.

Province Wellesley.

Low's Penang, &c.

We learn from Mr. W. R. Young who was lately employed as Commissioner to enquire into the condition of the settlements in the Straits, that though slavery is equally contrary to the law in this province as in the Island of Penang, yet there is reason to believe that owing to the vicinity of the Siamese territory, upon which it borders, there are in fact some persons held in slavery illicitly.

Appendix I, p. 63.

We find that in 1828, the attention of the local authority at Penang was drawn to the importation of about 80 persons from Pulo Nias to be sold as slaves. The Law Agent was directed to prosecute the Chinese concerned in this slave dealing at the next sessions of Oyer and Terminer, but the Grand Jury ignored the bill, probably from the defect of evidence, and as observed by the Court of Directors, the

interference of the Government produced no effect beyond the liberation of the slaves.

The Government communicated with the Naval Commander-in-Chief on the subject and requested his co-operation towards suppressing this traffic, but he considered the authority placed in his hands much too circumscribed to enable him to afford any aid towards the effectual prevention of slave dealing in these seas, "for unless a vessel be under the British flag, or the most positive proof be adduced that she actually belongs to a subject or subjects of His Majesty, or to a person or persons residing within the dominions or settlements of His Majesty, or under the Government of the East India Company, and is bona-fide engaged in the Slave trade at the time, he could not during a period of peace sanction her being brought to for examination on the high seas (much less for detention) or within a league of the territory of any power in amity with His Majesty."

MALACCA.

The settlement of Malacca was taken by the British from the Dutch in 1795, and no cession having taken place during the short peace after the treaty of Amiens, remained in our possession up to August or September 1818; from that time till April 1825 it was subject to the Netherlands Government; it was then transferred to the British Government, under which it has since remained. The subject of slavery at this settlement was fully investigated by the local Government in 1829, and the results of the investigation were thus recorded. "It appears that slavery has existed at this settlement from time immemorial; that the slave trade, that is, the importing and exporting of persons to be dealt with as slaves ceased in the year 1813; that local slavery has continued up to this time; that disputes between masters and slaves have always been settled, while the place was under Netherlands authority by the Fiscal, while under the British, by the Resident or the Police officer. Slaves misbehaving have been punished; absconding slaves have been returned; and masters ill using slaves have been also punished by fine or otherwise as the case required, It moreover appears that in consequence of a proclamation of the Governor General Baron Vander Capeller, a registry of slaves was opened in 1819, another in October 1822, and a third for the insertion of transferred slaves from other settlements; and these several registers contain as follows;

First—Men	.	.	.	.	.	.	.	657
Women	.	.	.	.	.	.	.	680
Children	.	.	.	.	.	.	.	165
								<hr/> 1402
Second—Men	.	.	.	.	.	.	.	39
Women	.	.	.	.	.	.	.	29
								<hr/> 68
Third—Men	.	.	.	.	.	.	.	6
Women	.	.	.	.	.	.	.	6
								<hr/> 12

"It further appears that an agreement has been signed by certain of the principal inhabitants to declare all children born of slaves after 1819 to be free."

* * * * "It follows from an attentive consideration of all these papers, that the only persons coming in any way under the description of slaves, are those surviving whose names are inserted in the above registers to which no addition has, or could be made since the date of cession. Under all these circumstances the Governor in Council has determined that the practice heretofore enforced in respect to all those whose names are found in the registry, shall as far as rests with him, be continued until a full and regular judicial decision can be obtained on the general question, how far the state of slavery can be tolerated at this settlement under the existing laws of the British Government—a question which the Governor in Council does not consider himself competent to decide."

It appears that sometime after, a judicial decision was passed on the question by the Court of Quarter Sessions, the Governor being *ex officio* President. The following is the judgment delivered by the President :— p. 236.

"Since the question of slavery was last before this Court I have attentively considered the subject, referred to Acts of Parliament and other authorities within my reach, and after the most attentive revision of the whole, I am of opinion there is nothing either in the Act of Parliament by which Malacca was put into the possession of the East India Company, nor in that by which the creation of a new Court of Judicature was authorized, nor in the letters patent themselves by which the Court was constituted, which appears to me sufficient to take away any right of property in a slave which any Dutch inhabitant may have had before the cession, and even the Act of 5 Geo. IV. c. 113, s. 13, recognizes and protects existing rights of property in slaves,

"I am further of opinion that in all cases relating to slaves standing on the registry at the time of cession, this Court is bound to adhere to the laws, customs, and usages in force regarding them, until those laws may be changed either by his Majesty in Council, or by an Act of Parliament. While this Court therefore will protect all slaves from ill treatment and improper usage on the part of the masters, they must, at the same time, enforce due obedience on the part of the slave, and in respect to the return of absconding slaves, follow exactly the course established under the Netherland's Government, and hitherto observed."

In the mean time a reference had been made by the local Government to the Governor General in Council, who took the opinion of the Advocate General on the question, "whether slaves registered under the preceding Netherland's Government are to be considered still in a state of slavery since the transfer of that place to the British authority and the establishment of an English Court of Justice there." To this question the Advocate General answered that in his judgment, "those persons who were slaves, and entered as such in the register under the Government of the Netherlands are legally to be considered in a state of slavery since the transfer of that place to the British authority, and the establishment of an English Court of Justice." The Governor General in Council considered this opinion to be conclusive and satisfactory on the question referred, and desired that the Government and the local authorities should be guided by it until a different construction should be put on the law by a higher authority.

Thus the executive and judicial authorities arrived at the same conclusion, and agreed in recognizing the legitimacy of the slavery existing before the cession according to the registers of the Netherland's Government.

p. 226.

But previously at the instance of the Governor, the inhabitants of Malacca (the principal of whom had agreed in 1819 that all children born of slaves after that period should be free) had held meetings to take into consideration the best mode for abolishing slavery entirely, and it was finally resolved at a meeting assembled on the 28th November 1829, at which deputations of natives were present, viz. 5 persons on behalf of the Portuguese; 5 persons on behalf of the Chinese; 5 persons on behalf of the Malays; and 5 persons on behalf of the Chooliats, that "slavery shall not be recognized in the town and territory of Malacca after the 31st December 1841," which resolution was formally recorded and signed by the parties.

When the subject of slavery was under discussion at Malacca the attention of Government was drawn to the practice of dealing in slave debtors, an enquiry was therefore instituted for the purpose of ascertaining the nature of this traffic, and the terms of the engagements by which the debtors were bound. For this purpose queries were sent to the Resident Councillors of Malacca and Singapore, and to the Superintendent of Police at Prince of Wales Island.

201.

p. 238

We have had access only to the answers from Malacca which are contained in the volume of papers on slavery printed in 1838, but the general result of the enquiry is stated in a minute of the Governor in the same volume as follows. "The reports now received fully explain the general nature of the system and establish the following facts, that the practice of importing slave debtors clandestinely still continues; that persons so imported are procured by Nakhodas of Prahus and other native vessels from the adjacent islands, mostly from Bali; that they are procured exactly in the same manner as regular slaves by purchase money, or goods in barter; that they are frequently the captives taken by the Pirates; that they are imported to all intents and purposes as articles of trade; instead of the amount payable being stated at once, and openly avowed as their price, it is represented as a debt due by the slave debtor to the importer, and on payment of that sum the debtor is transferred, but it does not appear that (excepting Chinese) the person so transferred has any voice in the transaction or even knowledge of the terms of transfer, but considers him or herself as a slave to all intents and purposes."

With respect to Chinese emigrants, the Governor had previously remarked that in this case the transaction was a mere voluntary contract for labor for a given time; their labour for a year being disposed off on certain conditions, and the amount paid as passage money to the master of the vessel who brings them. The transactions he observed were at Penang regularly registered in the Police office, and considering the character of the Chinese, he thought there was not much danger of abuse. With respect to others, natives of the adjacent islands, the practice conducted as above explained, he considered to be "actual slave dealing subjecting all concerned to the penalties of the law," and he thought it would be the bounden duty of any Magistrate to bring every case that came to his knowledge before the criminal sessions, and to commit all concerned for trial.

He conceived that the Government was "bound by every obligation, legal as well as moral, to put down a practice, which however conducted in form, is in reality slave dealing forbidden by law, and the continuance of which must carry with it a continuation of all the horrors induced by it in other places, as exemplified in the case of African slave dealing, the encouragement to wars for the purpose of making captives for sale, and in these seas even the piracies which it encourages, slaves being often the principal objects in view." It was accordingly ordered by the Government, that a proclamation should be published declaring "the practice of importing and employing persons under the denomination of slave debtors," being "in reality only a cover to actual slave dealing," to be an offence against the Act 5, Geo. IV. c. 113, and notifying "that all persons offending in this respect would subject themselves on discovery, to the penalties laid down in the Act."

With regard to persons, who had been already imported, and disposed of, as slave debtors, and were in the service of individuals, the Governor observed that "there could not be a doubt that all so situated are *ipso facto* free, and that no one could from such a transaction establish any legal claim to their service against their consent;" but he thought "any direct interposition of Government would be objectionable." "So long as the servant was well treated by the master and satisfied with his condition, there could be no moral reason or call for interference: on the other hand, when parties were ill used and dissatisfied, they would find their way to the proper tribunal, the Magistrate," who would doubtless "annul a claim founded on no better title than the sale of an imaginary debt said to be due to a Nakhoda, without either the knowledge of, or admission by, the party transferred." "The release of one so situated would be followed by the application of others who felt the desire to be released, and had the means of deriving subsistence by their own free labour. The admitted claim to release would probably secure to many such treatment from masters as would prevent too numerous applications." For these reasons the Government was content with adopting the means within its power for preventing the further importation of slave debtors, without interfering directly to change the condition of those actually in that kind of service.

We are informed by Mr. Young, that he believes that the prohibition above mentioned, is enforced with respect to natives of neighbouring countries, but is not understood to apply to Chinese, who are still commonly imported under contracts to work out the cost of their passage.

Appendix I, p. 63.

SINGAPORE.

We have no particular information regarding the settlement of Singapore. But, as it was established in 1820, long after the abolition of the slave trade by Act of Parliament, no slaves could be introduced there legally; and as the island was previously inhabited only by a few Malay fishermen, it may be presumed that none were found there.

We suppose that the system of slave debtors grew up and prevailed at this settlement, as well as at Malacca and Penang.

But since 1830, under the proclamation of the Straits Government already noticed, the importation of slave debtors has been prohibited as well at Singapore, as at Malacca and Penang.

PRESIDENCY OF FORT ST. GEORGE.

Selection of India Papers printed by the order of the Court of Directors vol. 1. p. 898. Slavery in India, 1828, p. 815.

In treating of the provinces under the Presidency of Fort St. George, it may be convenient to follow the division of the country observed by the Madras Board of Revenue in their minute, dated 5th January 1818, in which there is a report upon the condition of the laboring classes, and particularly of the slaves employed in agriculture. In this arrangement the districts are classed with reference principally to the language of the people. The first division called by the Board Telingana, comprises the districts in which Telinga is spoken, viz. the five Northern Circars, Ganjam, Vizagapatam, Rajamundry, Masulipatam and Guntoor; Palnad and Nellore composing the Collectorate of Nellore; and Bellary, and Cuddapah, commonly called "the Ceded Districts." The second is the Tamil country, where Tamil is the prevailing dialect, comprising the districts of Chingleput, North and South Arcot, Salem* including the Baramahl,* Coimbatore,* Madura and Dindigul, Tanjore, Trichinopoly, and Tinnevely. The third comprehends the districts of Malabar and Canara, on the Western Coast of the Peninsula, in which the Malayalam and Toolava are the vernacular dialects.

In the above minute the Board of Revenue stated, that "throughout the Tamil country as well as in Malabar and Canara, far the greater† part of the laboring classes of the people have, from time immemorial, been in a state of acknowledged bondage, in which they continue to the present time." "In Malabar and Canara, where the land is very generally divided and occupied as separate and distinct properties, the laborer is the personal slave of the proprietor, and is sold and mortgaged by him independently of his lands.‡ In the Tamil country where land is of less value, and belongs more frequently to a community than to an individual, the laborer is understood to be the slave, rather of the soil than of its owner, and is seldom sold or mortgaged, except along with the land to which he is attached. But in Telingana, where it is difficult now to trace the remains of private property in the land, this class of people is considered free."§

TELINGANA.

Entertaining this notion of the general freedom of the actual tillers of the soil in the districts which they designated as Telingana, the Board excluded them from an enquiry which they directed to be made by the Collectors in Canara and Malabar

* The Board of Revenue observe that in some detached parts of Salem, Baramahl, Coimbatore and Bellary, the Canarese is spoken. This arises, they remark, from those districts comprehending parts of the ancient kingdom of Carnataca but the small extent of our territory in which that language is spoken, renders it unnecessary to class it separately from the rest.

† Note by the Board of Revenue. "It is only the greater part, not the whole of the laborers in these countries that are slaves, many of them are also free."

‡ Note by the Board of Revenue. "As it is not the interest of the landlords in Malabar and Canara to sell the slaves who cultivate their lands, they usually dispose of the increasing stock only for which they have no immediate use, but their power to dispose of all their slaves independently of their lands seems to be undisputed."

§ In a note the Board remark, that in Telingana a laborer cannot remove from one village to another pending engagements which he has not fulfilled; but he is free to make his own terms, and after performing the engagements into which he voluntarily enters, becomes again the master of his own labor. It is believed, however, that the laborers in Telingana generally remain in the same village, and attached to the same family of the ryot from generation to generation.'

and the Tamil country, in order to obtain more minute and satisfactory information respecting the relation of master and slave, particularly as to the power of the master over the person of his slave, and the liability of the latter to be sold independently of the land, and other particulars incident to his condition; also as to any rights or privileges the slave might be entitled to in virtue of his condition, which information was called for with a view to affording some relief to the slaves by legislative enactment. From this omission there is not so much information on record relating to slavery in this part of the territory of the Madras presidency, as there is for the other districts, being chiefly contained in the answers of the district Judges and Magistrates and of the superior Courts to the Queries of the Law Commission circulated in 1835, which were framed with a particular view to the preparation of the Penal Code; and in the answers of the same authorities to a reference made to them in 1832, on the expediency of introducing into the Madras Code a Regulation containing provisions similar to those of Regulation X of 1811, and III of 1832, of the Bengal Code, relating to the importation of slaves, and their removal for the purpose of traffic from place to place within the British territories.

In Appendix IX. of this report.

Slavery in India, 1838.

The Board of Revenue supposed, that "in former times slavery may have been as prevalent in the northern, as it is now in the southern and western provinces; and the same circumstances that reduced the landlord of Telingana to the situation of a landholder, may have tended gradually to weaken the power he possessed over his slaves until they finally became altogether emancipated from his authority." We find however that slavery is not so entirely extinct, in the Northern Circars at least, as they understood it to be.

Northern Circars.

In a statistical report made by Mr. Russell (late member of Council at Madras) while Collector of Masulipatam, in 1819, he stated, that "the far greater proportion of the more substantial ryots have slaves, or rather they have men whose families have been in the employment of their ancestors from time immemorial, and whose services they have a right to enforce." He adds, however, "that the general acceptance of the name under which they pass is little applicable to their actual condition. The work of the Indian bondman is not the forced labor of compulsion, but the willing exertion of one who looks up to his master as his hereditary protector, and who toils as cheerfully for his allowance of grain, as the temporary laborer whose assistance is hired."

Revenue Appendix III, Report of Select Committee of House of Commons, Aug. 16, 1832, p. 508.

The acting Magistrate of Masulipatam, in 1833, gave a more particular account of the slaves in that district, by which it appears that besides those in the service of the ryots, called Paulaloo, being those alluded to by Mr. Russell, there are two other classes; one, of which the males are denominated "Khasaloo" and the females "Dauseeloo," in the service of Zemindars, and other considerable persons of the superior Hindoo castes, including Bramins; the other in the service of Mussulmans, the males called "*Ghoolams*" and the females "*Baundies*." Those attached to the ryots are said to be of the Paria caste; "their masters give them a daily subsistence for from five to seven months in the year,* and allow them the enjoyment of

Masulipatam.

Slavery in India, 1838, p. 395.

* Mr. Russell estimates the subsistence of 2 slaves for 6 months, at 2 seers of Paddy each per diem, to cost 18 Rs. He says, in explanation—As the fees which the Ryot receives at the threshing floor are given to his slaves and constitute their means of support during a part of the year, I have calculated their subsistence for 6 months only. From a table prepared by him, it appears that the Ryot's proportion of the fees alluded to amounts to 4 per cent. of the gross produce.

different kinds of emoluments deducted from the gross produce under the head of "Kareezooloo." "For the rest of the year they maintain themselves by other employments." "The masters are not bound to feed their wives daily, but they have authority to make these women work for them, whenever they require them for sweeping or weeding their fields or reaping the crops. The "Paulaloo" and their male children (at whose birth the master pays certain expenses) are not to desert their masters. If they do, and go to a new master, the old one will claim them and receive them back, on payment to the new master, of the expenses he may have been at for their maintenance while with him." "When a ryot mortgages his land to another person, his Paulaloo go with the land, and the person who takes the land in mortgage will gladly take them because he thereby gets persons to cultivate the land without the trouble of seeking for them elsewhere. When the owner redeems his land his Paulaloo return to him along with it, but they are not saleable." It is mentioned as a singular custom shewing the authority of the masters over the cattle of the "Paulaloo," that when a cow, or buffalo, belonging to the latter, produces a bull calf, the master takes it, paying for the produce of the cow 4 rupees, and of the buffalo 2 rupees, whatever may be the real value.

The slaves in the service of the zemindars, &c., "men, women, and children, are fed and clothed by their masters," who also defray the expenses of marriages and births among them. Should a "Khasa," or man slave, marry, he of course continues to be a slave, but his wife does not become a "Dausec." The male issue of such marriage are however "Khasaloo," although the female issue are not "Dauseeloo." The "Dausec" or woman slave, never marries, but the children she may bear are all slaves. In short all "Dauseeloo" and their children, and all "Khasaloo" whether married or unmarried, and the male offspring of married "Khasaloo" are slaves, and live under the protection of those in whose service they were born, who must feed and clothe them. "These masters never sell their slaves, yet in time of distress they give them leave to go away and seek their livelihood elsewhere; in which case other persons of the same caste, who are able to afford it, take a pride in protecting these cast off slaves, and so receive and feed them. But should the fortunes of their former masters change again for the better, their new masters do not hesitate to send them back again on being demanded by their old masters, nor do the slaves refuse to return when so summoned." "Their condition with their masters" it is said "is by no means bad; their masters generally treat them with kindness, and feed them from infancy to manhood. If they were to leave their masters and seek a livelihood elsewhere, they could not better themselves by serving other people on monthly wages which for this description of servants cannot exceed 4 or 5 rupees a month, upon which the whole family of a "Khasa" could not be maintained; so that they never desert their masters who will always continue to maintain them, unless they are reduced to the greatest distress themselves."

With respect to the slaves in the service of Mussulmans, it is observed that although their masters, probably, would not scruple to sell them if they dared, yet they do not sell them, partly from awe of the Government, and partly because they know that such sale would not be held valid by the Courts.'

Slaves of all the classes, it is said, "can leave their masters at any time if they please, and no force can be used to recover them."

In conclusion the Magistrate observed generally, that the persons denominated slaves in this district might be more appropriately termed "hereditary servants" and that they "appear to be bound to their masters rather by community of interest than by any other tie or obligation." He added that in "time of scarcity, children are frequently purchased from parents who are in distress and unable to maintain them, and they are brought up and used as servants, but they are at liberty to leave the service of their purchasers when they please, and this practice may, therefore, be considered beneficial to the community as such children would otherwise starve."

The reports relating to this district which were furnished by the local officers, in 1836, agree with the foregoing account.

Appendix. IX.

Of the other districts of the Northern Circars, the information we have found on this subject is very scanty and indistinct.

In the district of Rajahmundry which bounds Masulipatam on the N. E. the slaves it is stated "form a distinct class. They cannot be admitted by marriage into any caste without dishonoring the family with which they become connected, owing to their degraded state," as the offspring of 'notorious prostitution among themselves. But though they are usually called "slaves," the term is not considered to designate them properly for they are slaves only in name, their servitude being it is said "perfectly voluntary, and cannot be coerced beyond the limitation of regular service with impunity."

Rajahmundry.
Appendix. IX.

In Guntoor, which adjoins Masulipatam on the South West, it is stated by one officer that "there is no slavery in the strict sense of the word, but there are male and female servants attached to the zemindars who are designated as "slaves." "they have been for the most part attached to their families for several generations, and their children look forward to their continuing in the same employment. "Whatever might have been the case formerly, the engagement has been for many years voluntary, and can be said to exist only as long the zemindar is willing to pay for their subsistence, and they have no wish to change their condition. The fact of their being slaves does not in any way exonerate the master from punishment for any offence committed against them, and no measure would be taken to enforce the right of the masters to their service against their own consent."

Guntoor.
Appendix. IX.

Another officer observes that "there is a species of domestic slavery existing in the district," but "the individuals are employed more as private servants than as slaves, and are never bought or sold, but have been taken by the higher classes out of charity, to prevent their dying of want, and who provide them with food and clothing in return for their services which are exclusively domestic, and in numerous instances they have been promoted to high situations under the zemindars and others for good conduct, and have become cultivators, subadars, &c."

Slavery in India, 1838,
p. 294.

In Vizagapatam, slavery, it is said, is not recognized as legal by the authorities. It appears however from the report of the Magistrate, in 1832, that "a species of domestic servitude exists, improperly called "slavery." "The persons so deno-

Vizagapatam.
Appendix. IX.
Slavery in India, 1838,
p. 397.

minated "slaves" are born in the family, in which they are clothed and fed, but receive no remuneration for their services." They are fully aware," the Magistrate said, "of the protection to which the laws entitle them, but being kindly treated they have no desire to quit the roof under which they have been born and bred; were any ill usage shewn them they would not hesitate to avail themselves of such protection."

Ganjam.

Appendix. IX.

In Ganjam, the most Northern of the Circars adjoining Cuttack, slavery is mentioned as existing, but in the "mildest form" "not likely to give cause for complaint," "except with respect to the slaves belonging to zemindars," "who exert over them the most despotic power, not because it is allowed by law, but because they are out of the reach of the law." In one or two instances, it is said, where slaves have succeeded in escaping out of the zemindar's territories, they have been protected, and the right of the Rajahs to the person of the slave denied.

Slavery in India, 1838,
p. 397.

The Magistrate in 1832 stated, that some of the lowest caste of natives who have many children and no means of maintaining them give up one or two perhaps, to a rich neighbour, and receive in return money or clothes. The children are always well treated and are not bound to remain with their master if they are not desirous of doing so. There are a few children occasionally purchased in the district of Cuttack, and brought to the small Pagoda, at Ganjam, or Berhampoor, by the dancing girls of those Pagodas, but they are treated with kindness, and are at liberty to return at any time they think proper.

Agrestic slaves.

In the reports upon the other districts of the Northern Circars, excepting Masulipatam, there is no distinct mention of agrestic slaves as a separate class. But we think that Mr. Russell's observation above cited, with other remarks of a general tenor in the report from which it is quoted, was not meant to be restricted to the district of Masulipatam. At any rate when we find that agrestic slaves are so common in that district, that in an estimate given in the same report of the costs of cultivation in different kinds of land and under different modes of culture, the subsistence of laborers of that description is included as one of the ordinary charges, and when we consider how closely connected this district is with the neighbouring ones, how similar are the customs and habits of the ryots, the tenures of land, and the system of agriculture, we can scarcely doubt, that, in the contiguous parts of Rajahmundry and Guntoor at least, and probably more generally, the husbandry is mainly carried on by a class of field laborers who are in the same condition as those who are called slaves in Masulipatam. And, indeed, the description of the slaves in Rajahmundry, who are said to form a distinct class, considered to be impure, and, therefore, unfit for domestic service, leads to the inference that they are the same as the Paria agrestic slaves of Masulipatam.

Origin of this particular kind of slavery.

Of the origin of this condition of slavery to which a particular class of the rural population is subject in Masulipatam, and probably in the neighbouring districts, if not throughout the Northern Circars, we have not found any information. But seeing that the people subject to it are of the Paria tribe, one of the two of which the great body of agrestic slaves in the Tamil country is composed, and to which also belongs a large part of the slaves of Malabar, it is reasonable to suppose that it arose out of the same circumstances as in those countries, and probably had originally the same character.

The Judges of the Provincial Court observe generally of the servitude known by the name of slavery in the Northern Circars, including, we apprehend, that which we have just adverted to, as well as domestic slavery, that "it may be considered a voluntary submission to the loss of liberty for the assurance of a certain, but undefined subsistence, comprehended in the general term livelihood. It is an irregular system of servitude involving no loss of social rights, nor exposing the individuals to any other restraint than ordinary service imposes." This may be sufficiently correct as applied to the condition of the slave of the ryots in the villages, of those belonging to zemindars in the more settled parts of the country, employed partly in domestic services, partly in field labor and other out-door work, and of the male domestic slaves in the families of householders in the towns. But we conceive that an exception must be made of the hill zemindaries, and that the remarks of the collector of Ganjam, already quoted, as to the despotic power which the chiefs in those territories practically, though it may be unlawfully, exercise over their slaves, (as perhaps over other servants) must be taken as applicable to them all from Rajahmundry to Ganjam. And we think the observation of the Court must be understood with some qualification with respect to female slaves employed as attendants in the private apartments, in the families of zemindars and Mussulman householders, over whom, from our general information, we cannot doubt that a greater degree of personal restraint is exercised than over any common servants.

General observations,
1836.
Appendix. IX.

Exceptions.

It does not appear that the right to the services of slaves, agrestic or domestic, has ever been the subject of civil action in any of the Courts of the Northern Circars; and both are exempt from sale. The law it is said by the Provincial Court, "is available to such as fall under the denomination of slaves in common and in equal degree as to all other classes," and in this position the district Judges, and Magistrates, appear generally to agree.

The sale of children by their parents, under the pressure of want, occurs in times of scarcity; but such sale does not confer a right to their services against their will after they are of age to make a free choice.

Sale of children by
parents.

We do not find any notice of persons passing from freedom to slavery by self-sale.

Self-sale.

We see that formerly a traffic was carried on chiefly by the French and Dutch settlers in the Northern Circars, by purchasing children brought to sale by their parents in times of distress, or kidnapped, and exporting them by sea as slaves, to suppress which a proclamation was issued by the Government of Madras in 1790, prohibiting absolutely any traffic in the sale or purchase of slaves. This, and other measures taken in concert with the French and Dutch authorities, appear to have been effectual, and the practice seems to have been put down for a long time.

Exportation of slaves
Slavery in India, 1828,
p. 486 and seq.

But a case has lately come under judicial investigation at Madras, from the evidence in which it appears that it has been partially revived. In the Appendix will be found reports upon this case from the Advocate General and the Marine Police Magistrate at Madras, and the Magistrates of Vizagapatam and Ganjam. The facts are briefly as follows. A brig, the *Moydeen Bux*, navigated by natives, but under British colours, arrived at Madras from Calingapatam in the Ganjam district

XIV.

bound to Nagore in the district of Tanjore, having a number of children on board shipped at Calingapatam. The Master Attendant having received information of this, and suspecting that the children were intended to be dealt with as slaves, instituted an enquiry as Magistrate of the Marine Police, and eventually, upon the advice of the Advocate General, committed the Nacodah, or native commander, and others, for trial before the Supreme Court, upon a charge of slave dealing in contravention of the Act 5, George IV.c.113.

The parties it appears were acquitted on the trial before the Supreme Court on a point of form in consequence of a verbal omission in the indictment. The number of children discovered by the Police was 26.

The Brig Moydeen Bux was driven into Calingapatam by stress of weather, and remained there during the whole of the Southwest monsoon. At this time a great scarcity prevailed in Vizagapatam, the neighbouring district, and the people were suffering the extremity of want, and ready to sell their children for a trifle, or to give them away to persons who would undertake to subsist them. Under these circumstances the children were obtained by the Nacodah and his people, and there does not seem to be any ground to suppose that they used either fraud or violence. There does not appear to have been any concealment practised, either in procuring them or shipping them, shewing a consciousness of wrong on the part of those concerned.

Indeed, as noticed in another place, the sale and purchase of children in time of famine, is declared in a late Circular Order of the Foujdaree Adawlut, not to be an offence according to the Mahomedan law, and, therefore, not punishable by the criminal Courts. It is not probable that the Nacodah and his people were aware of the penalty denounced by Act of Parliament for slave dealing, but if they knew it, they might still be ignorant that they rendered themselves liable to it, by the mere act of transporting by sea from one place to another within the same territory, children purchased by them, as allowed by law, in a time of famine, whom they might have carried to the same place by land without objection.

It appears that the Choolia (Mahomedan) merchants of Nagore carry on a considerable trade with the port of Bimlipatam in the district of Vizagapatam, where some of them usually reside, passing to and from Nagore occasionally. The Magistrate of Vizagapatam states in his letter to the Marine Police Magistrate, that it has been proved that these persons have been in the habit of procuring children in that district and conveying them to their own country, their alleged object being to procure converts to their religion, lascars for their vessels, and slaves for domestic purposes. The same officer has informed the Law Commission that he is however "satisfied that the practice of exporting children has been very limited, and that the transaction which led to the trial at Madras arose from the very peculiar circumstances of the past season." He has also transmitted to them copy of a letter from the Acting Principal Collector of Tanjore stating, that from the enquiries he has made there appear "no grounds to suppose that it is customary for native vessels to bring children to the ports in that district for the purpose of disposing of them for domestic or other description of slavery."

The Magistrate of Ganjam has also informed the Law Commission that having made diligent enquiry in consequence of the late affair of the Moydeen Bux, "All

the information he has obtained leads to the belief that nothing of the nature of a trade in slaves has prevailed in this district for very many years." With respect to the Moydeen Bux he observes, that "the accidental arrival and detention of the brig at a time when extreme distress prevailed in the neighbourhood, appears to have afforded facility for procuring the children, of which the Lubbies (or Choolias) availed themselves, but I do not think there is any ground to suppose that the vessel came expressly to the coast for any such purpose, or that children have in any other instances of late years been shipped from ports in this district." He remarks that the Lubbies of Nagore and the other ports to the southward are in the habit of adopting into their families children of other castes, who serve them as domestics, and are also employed in their vessels and generally in their commercial transactions; and adds, "I have had an opportunity of seeing something of the Lubbies in the Tanjore and Madura districts, and consider them a very industrious and well conducted class, and I am disposed to think that in obtaining these children the people of the Moydeen Bux had no criminal intention of selling them again as slaves for the sake of profit."

A case is mentioned as having occurred in the Masulipatam district during the famine in 1833, in which a party was convicted of having purchased or otherwise procured children for the purpose of exporting them as slaves to the Nizam's country, and was sentenced by the Foujdarees Adawlut to imprisonment and hard labor for three years. This case will be noticed more particularly in another place.

Appendix IX.

Slavery in India, 1838, p. 429.

Of the remaining districts comprehended by the Board of Revenue under the general designation of 'Telengana, Nellore, Bellary, and Cuddapah, it is stated by the local officers, that in Nellore there is no slavery, altho' some few Mahomedans have domestic servants who were purchased by them from their parents in infancy, but who cannot be considered slaves, as they are at liberty to leave their masters at their own will.

Nellore.

Appendix IX.

With respect to Bellary and Cuddapah which compose what are commonly called the Ceded Districts, it is reported that no cases of slavery have come under the cognizance of the authorities in those districts, and we see that it is stated positively by Mr. Campbell who was for some time Collector of Bellary that "no agrestic slaves whatever exist there, and that the domestic slaves, if there be any, do not exceed one or two hundred in a population of above a million."

Bellary and Cuddapah
Appendix IX.Answers of A D Campbell Esq. p. 452.
Appendix I (Public)
Report Select Committee House of Commons.
16th August, 1862.

Mysore.

We may here remark that in the country of Mysore, which adjoins these districts, agrestic slaves are almost unknown. We find no mention of such slaves in the printed report of the Resident, Major Wilks, upon the statistics of that country; and Dr. Buchanan appears to have found slaves employed in agriculture only in the district of Nuggur which adjoins Canara.* It is worthy of notice also that there are no slaves in those part of North Arcot, Salem, and Coimbatour, which border on Mysore to the East and South, as will be seen below.

Dated 5th Dec. 1804,
printed by order of
Gov. Genl. in Council
4th May, 1805.
Journey thro' Mysore,
&c. vol. 3, p. 280.

* Col. Cubbon, Commissioner in Mysore, states in a late report (13 June 1840) that prebendal slavery is found in the Mysore territory only in the districts skirting the Western Ghats, and there to no great extent.

It appears however that under Tippoo's reign the children of thieves and highway robbers were made slaves of the Government.* And an order† was passed by Tippoo forbidding the practice which had prevailed of "the aumils and officers of Government and other people purchasing and selling abandoned girls and orphan children," and directing that in future they should neither "be sold abroad" nor "lodged in the Deostans" (Hindoo temples) but should "be collected together for Government" "and sent to the Huzzoor." (the seat of Government.)

TAMIL COUNTRY.

COMPRISING THE DISTRICTS OF CHINGLEPUT, N. AND S. ARCOT, SALEM, COIMBATOUR, MADURA AND PINDIGUL, TANJORE, TRICHINOPOLY AND TINNEVELLY.

Slavery in India, 1828.

With respect to the Tamil country, we have fuller information in the answers of the Collectors to the queries addressed to them by the Board of Revenue, in 1819, besides the reports of the district Judges and Magistrates, and the superior Courts, in answer to the queries of the Law Commission circulated in 1835, which will be found in the Appendix, and in the answers of the same authorities to the reference made in 1832, adverted to in the preceding section.

IX.

Ditto. 1838.

We have also found valuable information in other reports, already in print, which are referred to below in the places where they are cited.

Salem,
Coimbatour.

Of the districts composing this division of the Madras territory, it appears from the reports that slavery does not exist in Salem:‡ and in Coimbatour, it is found in a few villages only, in the talook of Caroor, which adjoins the district of Trichinopoly, and that of Polachy which lies towards Malabar. In these parts, it is stated, there is a class of people "who are serfs of the soil, and are considered attached to the estates on which their families have resided from time immemorial, and in mortgaging lands these people are always included with the estate."

Slavery in India, 1838,
p. 389.

In all the other districts, slavery, principally agrestic, is found to exist, but in the northern division of Arcot the slaves are few, and are almost confined to the Southern talooks, which are those that properly belong to the "Tamil country."

Slavery in India, 1838,
p. 389.

AGRESTIC SLAVES.

Dr. Buchanan, *Journey from Madras thro' Mysore, Canara, and Malabar*, vol. i. p. 19.

It was observed by Dr. Buchanan, in 1800, that in the lower Carnatic, (Carnatic Payin Ghat) much of the land is rented by Brahmins; "but like the Jews, they seldom put their hand to actual labor and on no account will they hold the plough. Their farms they chiefly cultivate by slaves of the inferior castes called Sudra, and Punchum Bundum. The Punchum Bundum are by far the most

* Tippoo's Regulations British India Analyzed, 1795.

Art. 52 "There are many Korchywaras, thieves and highway robbers, in your district: you are to find them out and apprehend them, with their women and children: and having selected from them all the young boys and girls who are wanted by Government as slaves, you shall provide them with a suitable allowance for their diet, at the rate of one seer of rice and one pice per day, one with another, and send them with great care, under charge of the Killadar to the Huzzoor."

† Ibid, Art. 102.

‡ This is stated positively by the Magistrate with respect to the district generally; and by the joint Magistrate with respect to the division under his charge—but the assistant Magistrate, while he states that slavery is altogether unknown, yet observes that children however are purchased during famine in consequence of the indigence of their parents. Some girls are taken as wives by their purchasers, some as servants. The latter, he says, are at liberty to abandon the protection of their purchasers whenever they think proper, and the case, it is presumed, is the same with males.—Reports of 1835 &c, Appendix ix.

hardy and laborious people of the country, but the greater part of them are slaves. So sensible was Tippoo of their value, that in his incursions it was these chiefly whom he endeavoured to carry away. He settled them in many districts as farmers, and would not suffer them to be called by their proper name which is considered opprobrious, but ordered that they should be called cultivators. The Puncum Bundum consist of four tribes: the Pariar, the Bulwun, the Shekliar and the Toti. The Shekliars dress hides; and from among the Toti is chosen a particular class of village officers. There are a few Musselmen farmers who possess slaves; but the most numerous class is composed of the different tribes of the Sudra caste. Some of these possess slaves, but many of them cultivate their farms with their own hands."

In Mr. Place's elaborate report on the land tenures of the district of Chingleput (Jaghire,) dated 6th June 1799, we find the following statement on this subject. "In fertile and well watered villages the Meerassée whereof belongs to Bramins, who being forbid to cultivate themselves, must employ servants for that purpose, the laboring servants are for the most part *Pariars*, who can by no means acquire property in land; and I have not yet met with an instance of their having done so. They receive wages partly in money and partly in those fees, which I explained in my report of the 6th October 1795, called Calavassum, and, if not the slaves of the Meerassidars, renew their service every year. But the other class of servants are men of the *Pullee* caste, and either by custom or rule, have an hereditary right of service under the Meerassidars, and are entitled to one third of the share which the latter receive of the crops. The Meerassidars in this case receive the Calavassum. Madrantica affords a very curious example of the preservation and assertion of this right. Previous to the repair of the tank, it is not known how long the lands were uncultivated;* but so soon as this work was completed, the descendants of many families who had formerly been the hereditary servants of the Brahmins, claimed, and were admitted to, their inheritance, though in the intermediate time they had taken up other occupation, and might be supposed to have forgot it. The office constitutes the inheritance like many offices of the feudal system. It might of course be relinquished by the occupant, who by that means broke the succession; and in failure of heirs, it rested with the Meerassidar to appoint others or not; but this also cannot be sold, mortgaged, or transferred. "It may be better to mention now than hereafter," he added "one very striking resemblance, that this country affords to the feudal system regarding servants; and as I could not possibly find words that would so well describe their situation, I shall beg leave to quote those of judge Blackstone.

Chingleput.
Appendix to 5th Report of Select Committee of House of Commons (No. 16.) 28th July 1812.

"Under the Saxon Government there were, as Sir William Temple speaks, a sort of people in a condition of downright servitude, used and employed in the most servile works, and belonging both they and their children and effects to the lord of the soil, like the rest of the cattle or stock upon it."

"These villeins belonging principally to the lords of the manors, were either villeins *regardant*, that is, annexed to the manor or lands, or else they were in

* Cultivated, in the printed copy, which is evidently an error.

gross or at large, and transferrable by deed from one owner to another. They could not leave their lord without his permission ; but if they ran away or were purloined from him, might be claimed and recovered by action, like beasts or other chattels. They held indeed small portions of land by way of sustaining themselves and their families ; but it was at the mere will of the lord, who might dispossess them whenever he pleased."

"Slaves of this description," continued Mr. Place "are very numerous all over the country, and are, I think, preferably situated to servants more at liberty, who also from the constitution of their religion are very little better than slaves. I have seen that the masters of the former take an interest in protecting and in marrying them ; for their offspring is in fact an increase of their own property, nay, so contented are they with the treatment they meet with, that but very few instances have come within my knowledge of their desertion when they have been claimed in the manner stated in the quotation ; and but one, where it has been so tyrannical that they were not to be prevailed upon to return. One man a Nattawar in Poonamallee, lately dead, possessed four hundred families of slaves. Reduced by the improvidence of his father to great distress, he could only employ about one hundred ; but so strong did the attachment of all the rest remain to him, that although they had for the most part engaged in the service of European gentlemen, and of myself among the rest, had he possessed the means of subsisting them, they would voluntarily, or with very little persuasion, have returned to him. The servants of the Vellalers were anciently all slaves, and I believe it is only with such that they are now found".

We should have thought that Mr. Place meant to designate by the term "Pullec," the tribe called "Puller," in the other districts of the Tamil country. But we find that Mr. Ellis, speaking of the same part of the country, also mentions the "Palli," besides the "Paller" and "Pareiyer" as serfs, the two latter "as most-ly the slaves of the Vellaler" the former "as vassals of the Bramin Meerassidar."

Paper on Meerassidars right. Vol. 1, Selection of India Papers, p. 810, also Revenue Appendix to Report of Select Committee of House of Commons, dated 16th Aug. 1832, p. 522.

Ibid p. 544.

In the paper written by B. Sencaraya, late sheristadar to the Collector of Madras, on the same subject, which Mr. Ellis annexed to his own, it is stated, that in the large villages about Madras, including Meerassidars, Uloudis, and Pyncaris, there may be from 20 to 140 cultivating inhabitants, and in small, not more than five or six ; always of course in proportion to the cultivable lands. In the villages held by the Vellaler or Agamudeyar, they possess a certain number of slaves. Each plough at work requires one man, and when the number of slaves, therefore, is not sufficient for the whole cultivation, hired labourers are employed. In Agraharams held by Brahmins there are few slaves, and hired labourers are principally employed. In some Agraharam villages there are no slaves."

* Slavery in India, 1828, p. 836, et seq.
† Appendix, IX.

From the reports of 1819* and 1835-36,† it appears, that the agrestic slaves in the other districts of the Tamil country are generally either Puller or Pariar. The Puller seem to predominate in the Southern districts, and it is stated by the Magistrate of Madura that they are of older standing than the Pariar as slaves. In Tinnevely, it is stated, there are also slaves of all the tribes of the Sudra caste, employed chiefly as domestics, but likewise "in the lighter duties of cultivation."

NUMBER OF AGRICULTURAL SLAVES.

With respect to Chingleput, it was stated, in 1819, that the chief part of the Pariar of the district were slaves, but we do not find any estimate of their num-

ber.* In South Arcot, the number of slaves of both sexes including children was then estimated to be more than 17,000.† In Tanjore, the slave-population, it is stated by the present Magistrate, is very numerous, and Mr. Campbell, his predecessor says, it amounts to many thousands.‡ In Trichinopoly, the number of the Puller was estimated in 1819 at 10,600§. In Madura, at present, the Magistrate states, slaves of all kinds bear but a trifling proportion to the whole population.|| In Tinnevely the number of agrestic slaves, or their proportion to the whole population, ¶ is not stated in any of the reports of 1819 or 1836, but it is to be gathered from them that the number is considerable. In the report of the Collector in 1832, it is stated, that the census taken for 1821-22-23 shows their number then amounted to 3,24,000; but this amount being about 38 per cent of the whole population, is so far out of proportion to what we find in any other of the Tamul districts, that we doubted its correctness, and thought it proper to refer to the present collector, (Mr. Eden,) for explanation. By him we are informed that the statement quoted does not agree with the official account of the census of 1821-22-and 23; according to which the sum total under the head of Puller, Pariar &c, made up from the details of Talooks, is 1,29,520, and it is explained that this comprises all of the Prædial classes and also a considerable portion of other classes not subject to slavery. The grand total of all the classes engaged in agriculture, excluding one or two of the upper ranks of Sudras, it is stated, is about 3½ lacs.

Magistrate of Tanjore 1835.
Appendix to Report of select Committee H. of C. 16 August 1832

Collector of Trichinopoly 1819.

Slavery in India, 1838, p. 390.

As to the origin of the slavery of the Puller and Pariar ** there is no distinct and positive information. Mr. Place observed "that it would now be difficult to institute any investigation on this point, and that it is one of those things we must be content to know existed with the Hindoo constitution, without assigning a reason or discovering a cause. Perhaps, he suggested, it was thought politically necessary that they should be made slaves when the Carnatic was first peopled." It is now impossible to trace, said the collector of Trichinopoly, in 1819, "whether this establishment took its rise from the voluntary submission of the indigent to the wealthy, or whether the Pullers were originally captives taken in war;" but agricultural slavery has existed in this district from "time immemorial." The Collector of Tanjore supposed, that the slavery of the Puller and Pariar was

ORIGIN OF THE SLAVERY OF THE PULLER AND PARIAR TRIBES. Appendix. 5th Report

Slavery in India, 1828.

Ibid.

* Present population of Chingleput is 3,31,821.

† Present population of South Arcot 4,84,800.

‡ Population of Tanjore, according to census of 1831, 11,28,730.—Number of landholders 40,042.

§ Present population of Trichinopoly 4,85,242.

|| Population of Madura and Dindigul 7,21,273. The agricultural portion estimated at about one eighth The people of low caste viz. Pariar and Puller estimated at 16 per cent.

¶ Population of Tinnevely 8,50,801,

etc.

The above statements of the population of districts, is taken from an account furnished to the Law Commission by the Government of Madras.

** What is the distinction between these tribes does not clearly appear. In the Tamil Dictionary the word Puller is rendered as the denomination of a low tribe of Pariar in the Southern country.—N. B. Pariar is plural, Parian or Paria singular.

The Abbé Dubois says, people of the caste of the Pullis which is little known but in the kingdom of Madura, and other parts bordering on Cape Comorin, boast a superiority over the Pariar, because they do not eat the flesh of the cow or ox; but the Pariar hold them to be far beneath themselves as belonging to the *left hand* of which they are the dregs, whilst they themselves pertain to the *right hand* of which they account themselves the firmest support."—Dubois—Description of People of India, p. 400.

founded in the first instance upon a voluntary contract on their part to men more powerful than themselves "upon whom they thus imposed a more strict obligation to protect and maintain them and their families than if merely serving them as laboring servants."

Ibid. The Collector of Madura accounted for it in the same way. "When a Puller or Paria was unable to gain a livelihood he was accustomed to offer himself or his relations as slaves to cultivating inhabitants for a sum of money from one to ten Cully-chukrums, when a bond of slavery was drawn out and signed. So also, the
 Ibid. Collector of Chingleput observed that "the Pariah slaves called adami (the Tamil name for a slave) came into vassalage in that district by their voluntary disposal of themselves either for a sum of money, or upon some other agreement in consideration of which they pledged themselves to service, and were at the disposal of the purchaser either for resale, mortgage, or gift. In thus
 Ibid. submitting himself to vassalage, he involved for ever his posterity." The Puller and Paria slaves, said the Collector of South Arcot, "appear to have been born* in a state of servitude through some contract of their forefathers;"† But he added, "the Hindoo Code, religious and civil, seems however to declare, that the Sudra tribe are naturally born in a state of servitude, and although some of the superiors of the subdivisions of that tribe in modern days have emancipated themselves from this degrading thralldom, yet the lower castes are always looked upon as natural slaves."

The late reports do not throw any more light upon this part of the subject.

Slavery in India, 1828, p. 887 to 900. The Board of Revenue in reviewing the reports made to them in 1819, noticed the various ways in which slavery can originate by the laws of the Hindoos, but did not attempt to determine the original cause of the peculiar slavery of the Tamil country.

It is supposed by some, that the Puller and Paria tribes are remnants of the aborigines who were found in the country when it was subdued and colonized by the Hindoos; and if this supposition is well founded, it accounts easily for the state of slavery to which the majority of them have been subject from time immemorial. It may be presumed that the colonists used the power by which they acquired possession of the lands, to secure the command of labor sufficient to make it profitable by reducing to bondage the prior inhabitants; all of them may not have been *appropriated*, and from the exempted may have sprung those who are to

* The Magt. of Chingleput in 1836 speaks of the slaves in that District as if they had all been purchased individually, making no mention of slaves by birth.—Appendix IX.

† The Magt. of S. Arcot in 1832 without noticing this hereditary slavery of the Puller and Paria observes, "a description of slavery (if such it can be called) no doubt exists in this district, where parties for a consideration engage to cultivate the soil for an indefinite period; but this cannot be called slavery, since upon repayment of the consideration, the parties are allowed to leave their master, and enter into the service of another." In his report dated in 1836 the same officer speaks of "agricultural" slaves "if such they can be called" "who are in a manner attached to the soil." "Tho the parties are termed slaves, their labour may be said to be voluntary as they are at liberty to quit their service at pleasure provided they are under no pecuniary obligation to their master."—Slavery in India, 1838, p. 400, and Appendix IX.

this day free, and those also whose slavery can be traced to contracts made by their forefathers. That some were left free from agricultural slavery, for the purpose of being employed on other services necessary to the community, appears from this, that to the members of the Pariar tribe from time immemorial, have been assigned, hereditarily, certain village offices.

Mr. Place believed, that in Chingleput, the tribe of Sudra cultivators called Vellalers only had *slaves*. The Collector in 1819 stated, that slaves were formerly possessed by Vellalers only; subsequently by Reddies, Comawars, and other Sudras also, but never by Brahmins. Dr. Buchanan however was informed, that Brahmins and Mussulmans cultivated their lands by slaves as well as the Sudra landholders; and B. Sancaraya we find, admitted that there were slaves, though few, in the villages held by Brahmins. In the report of the acting Judge in 1835, Vellalers only are spoken of as keeping slaves.

SLAVE OWNERS.

In Trichinopoly, it is stated, "Pullers are only to be found in villages where there is paddy cultivation, and the irrigated lands in which this cultivation is carried on belong to Brahmin Meerrasidars, who by the immutable laws of caste are prevented personally exercising the offices of agriculture." The case, it is understood, is the same in the neighbouring district of Tanjore, but there, it is said, the Brahmins in consideration of their caste do not receive the bonds of slavery directly in their own names, but have them drawn out in the names of some of their Sudra dependents.

The Board of Revenue in their proceeding dated 25th November, 1819, in which they reviewed the answers of the Collectors to their queries on the subject of slavery, observed, that "the present state of Hindoo slavery as described by the Collectors appeared to be nearly the same as it was defined and intended to be by the laws of Menu but that certain incidents in their villeinage consequent on the provisions of those laws which were enacted with a view to the comfort and happiness of this race of people, have been looked upon as proofs of an abject, degraded, and miserable condition." They alluded "to the circumstance of slaves being sold *with the land*, or in payment of the rent of it." Upon this they remarked, that the Hindoo law on the subject of transfers of property, speaks of land and slaves employed in the cultivation of it, and evidently contemplates these two species of property as one and the same, and not as property separate from each other;" "Indeed the attachment of the Hindoos to the lands which they have always occupied, and to the village where they have always resided is proverbial, and to separate them, therefore, from their native soil, might under such circumstances be considered an additional act of cruelty."

CONDITION OF THE
SLAVES - AND THEIR
CONNECTION WITH THE
LAND.

Slavery in India, 1828,
p. 887.

Colebrooke B. II.
ch. 4. sec. 14.

"A certain portion of the produce of the soil which they cultivate is in the Tamil country allowed by the Master for the maintenance of his slaves, whose duty it is to till the ground; and unless they were transferred with the land, the new proprietor when he obtained possession might experience difficulty in carrying on the cultivation, and the former master might be deprived of the means of enabling him to afford subsistence to his slaves."

"The probability of being transferred with the land, moreover, gives them therefore, on this coast, a sort of property in their huts and little spots of ground,

which they can thus occupy without any great fear of being turned out, or transferred contrary to their interests, feeling, and comfort."

They observed however, that even in the Tamil country, generally, "slaves are not *necessarily* sold with the land, although the convenience of all parties seemed to have rendered the practice common."

The reports recently received, as well as those of 1819, reviewed by the Board of Revenue, certainly make it appear, that in practice in the Tamil country, the slaves in question are not always sold with the land, although *that* is most usual, so much so perhaps, as to warrant its being taken as the original custom of the country, and to make it reasonably presumable that the occasional exceptions which are now found in practice, have arisen from an abuse of the power of the master.

Appendix I. (Public)
Rept. of Sel. C. II.
of C. 16 Aug. 1832.

Mr. Campbell who was employed for a time in Tanjore as Principal Collector, states, that "the agrestic slaves in the Tamil Country, are almost invariably transferred with the land. From this being done either in a deed separate from that disposing of the land alone, or without any deed at all, a few of the local authorities from imperfect enquiry have been led to question the fact, which is notwithstanding broadly stated by others; but I entertain none (no doubt) of the general practice." "The removal of them from their village, and consequently from their families, would be contrary to ancient usage, or Indian Common Law, and hence the practice of transferring them with the land when it is sold which though not necessary in law, is in the Tamil country almost invariably the practice," Mr. Hyde, the Collector of South Arcot, in 1819, observed, "it is stated that the slaves of this district can be sold by their owners to any person and to an alien village and that no slaves are attached to any particular soil or village: but I am induced to believe that such a practice is at variance with the rights annexed to the state of real bondage, for in some Meerassi villages it is known, that Meerassidars have advanced pretensions to possess an equal proportion of the slaves with their share of the villages; and I also believe that such a practice is hardly ever resorted to."

Mr. F. M. Lewin,
1836.
Appendix IX.

"The Pullers are not like slaves says the Judge of Combaconum, (Tanjore,) there is no slavery in their treatment; their transfer with lands resembles the transfer of ryots on an estate alienated by Government as Yanam (Enam) Shotrium &c."

Mr. J. F. Thomas,
1832.
Slavery in India,
1838.

According to another Judge of Tanjore, the removal and sale of the personal slave would be received by the people as no offence, whilst that of the bondman attached to the soil would be considered an unjust infringement of presumptive right.

Appendix IX.

Purchases of slaves are seldom made, says the assistant Judge of Tinnivelly, except where land also is bought, for slaves are for the most part attached to the land, and as part and parcel of it. Where an estate is divided, the slaves are indiscriminately awarded to each sharholder. The caste of cultivators called Pullers, the Joint Magistrate of the same district states, are bought, sold, and mortgaged with the lands of their masters, as has been the custom for very many years. The Collector of this district, in 1819, indeed, said, that slaves were sold or mortgaged either with, or separately from the land; but a subsequent observation by him, that "the slaves in time become so attached to the village in which they

are settled, that they seem not to consider their situation, nor to have any desire to be free and independent, implies that their settlement is regarded as permanent; and those who assert that slaves may be sold separately from the land which they have customarily cultivated, appear, for the most part, to maintain, that they cannot however be removed from their village without their own consent. The Sudder Adawlut observe, that in the rest of the Provinces (excepting Malabar and Canara) where agrestic slavery exists, it is believed that the transfer of such slaves *separately* from the land is contrary to local "usage."

In Tanjore, there is attached "to each house of the slave, in common with the other house-holders who are not land owners, a* small piece of land or garden tax free." And "he is paid for his labour at a regulated rate in grain and clothing which was arranged by the Collector in 1802." It appears, that generally the agrestic slaves are considered to have a right to a specific share of the produce of the land cultivated by their labor. An account of this† and of other allowances which the Puller is properly entitled to receive was given by the Collector of Trichinopoly in 1819. The share, and allowances, commonly called sotuntrums, vary in different districts, but they are generally, it is believed, as distinctly defined by custom as those of the village servants and others. In the Tamil country, says Mr. Campbell, the agrestic slaves are entitled to a certain proportion of the harvest reaped on the land they cultivate, and to prescribed fees in grain at each stage of the previous cultivation, as well as at certain national festivals. Mr. Ellis stated that "they all claim Miras in the incidents of their villeinage, and it is generally allowed to them: and their descendants on proving their former residence in the village." The Collector of Chingleput in 1819 said, he had inquired into this claim, but could not find that any allowances were accorded to the Pariars and Puller of that district, except Poorceallum, Calavassen and Aland-adey; but all that Mr. Ellis meant, apparently, was that they claimed a Meerassy right to till the land, and to receive from its produce those or similar allowances; Miras or Meerassy, as explained by him, being any office, privilege, or emolument, descending hereditarily.

ALLOWANCES, &c.
Mr. Campbell,
Appendix I. p. 455.
Report of Select
Committee H. of C.
16th August 1832.
Minute of Acting 3d
Judge Provincial Court
S. D. Slavery in India,
1838, p. 391
Slavery in India,
1828, p. 839.

Ellis on Meerassy.

On the whole it does not appear an unreasonable hypothesis, that in the original constitution of society, after the Hindoos became predominant, when a portion of the conquered race was appointed to till the soil, and bound to that service from generation to generation, not only was their condition and duty thus fixed immutably, but likewise their station or locality; that certain families were attached to each village and bound respectively to cultivate particular lands therein, or the lands of the village generally, according to the nature of the tenure, as the lands were held in severalty by individuals, or jointly by the community‡ with a definite

* Stated by the Collector in 1819, to be 80 Coontahs, "the same as to other laborers."

† To a man and his wife 10 per cent. of gross produce besides contingencies for marriages, births, &c. on the whole something above 17 per cent.

‡ It is supposed by some that this was the original state of property in the land, generally, in the Tamil villages. On the establishment of every Tamil village as now constituted, said the Board of Revenue 1810, the rights above explained were vested in all the original Vellaler settlers, as a collective body, not in each individually; every one of them therefore, possessed a separate equal share in the whole Meerassy, and hence in each village to the present day the number of equal shares into which the Meerassy was at first divided, remains the same as when

assignment on the produce for their subsistence. In the Tamil country, it is to be observed, the property in much of the land, and the slaves who till it, is vested in corporate village communities, Hindoo temples, and other institutions; and in the villages where the lands are held by such tenures, slaves are a kind of public servants, and perhaps their hereditary attachment to the land with a right to support from it, may as properly be considered a privilege as the hereditary right of the village servant of the same class to his office and the allowances assigned to it.

EMPLOYMENT.
Appendix I, p. 455.
Report of Select
Committee H. C. 16th
August 1832.

The following description of the employment of agrestic slaves in the Tamil country, by Mr. A. D. Campbell, is the fullest we have found. "The agrestic or field slaves in the Tamil country are employed by their masters in every department of husbandry: the men in ploughing the land and sowing the seed, and in all the various laborious works necessary for the irrigation of the land upon which rice is grown; the women in transplanting the rice plants; and both sexes in reaping the crop. Their labor is usually confined to the rice or irrigated lands; the lands not artificially irrigated, watered only by the rains of heaven, and producing, what in India, is technically termed dry grain, being seldom cultivated for their masters, whose stock is concentrated on the superior irrigated soils; and any cultivation by the slaves on unirrigated ground, is generally as free laborers for others, or on their own independent account.* The agrestic slaves work in bodies together, the village accountant registering the work executed by them, which he inspects; but they are not personally superintended by any one, nor placed under any driver; they generally work from about sunrise to sunset, with the intermission of a couple of hours for their meal during the middle of the day. They are not exempted from work on any particular day of the week, but obtain holidays on all the great native festivals, such as those fixed for consecrating implements, the new year, and other great days. No particular task-work is assigned to them daily, it is sufficient, that the slaves of each master execute the work necessary for the cultivation and irrigation of his lands. These slaves are also often employed in erecting temporary rooms, or pundals, used by their master in marriages or other festivals, and occasionally are called on by requisition of the Collector or Magistrate, issued to their masters, to aid in stopping any sudden breach in the great works of irrigation conducted at the expense of Government, or in dragging the enormous cars of the idols round the villages or temples, to move which, immense cables, dragged by many thousands, are necessary; in Tanjore, in particular, from the great number of the temples and the frequency of the festivals, this is a very onerous duty."

PERSONAL TREAT-
MENT.

It is stated positively by Mr. Campbell, that "the lash is never employed by the master against his slave in the Tamil country," and the general

the village was originally settled, though the holding has altered in course of time, in some villages the lands having fallen entirely to an individual, while in others the shares have increased in number, and the original shares have been subdivided into fractional parts.

* It is stated in a minute of the Acting 3d Judge of the Provincial Court Southern Division, 1832, that in Tanjore "when the Master has no work for his slaves, he allows him to work for another Mectrassidar, who pays the man for his labor, by which means the slave acquires personal property."

tenor of the reports implies, that it is not usual to employ it, and that, as it is expressed by a former Collector of Tanjore, "the slave is not more liable to personal punishment than other laborers, in consequence of his state of bondage." We find it stated however, by the Assistant Judge of Tinnevely, that "when the slaves are employed in the fields, not in task-work, in which they labor with alacrity, they require to be constantly watched, and the cane is in constant use. "They generally labor" (he observes) "from 8 to 4, but when occasion requires it, their whole time, day and night, must be spent in the field." The general opinion appears to be, that they are not coerced to labour by more severe treatment than hired* servants of the same classes employed in similar work. "The fact, indeed, appears to be" (says one officer), "that the slave is so necessary to the cultivation, and laborers are so scarce, that the proprietors find it their interest to protect and treat them well." "I have examined the Pullers myself on this subject" (says another,) "and asked them what course they would pursue if ill used. They replied, that they would seek other masters at a distance who would treat them more kindly." "The right of the Puller" (the same officer adds) "is so distinctly defined by custom, and the interest of the Mcerassidar so substantially affected by the good conduct and health of the Puller, that it is hardly possible to suppose the Mcerassidars would be so blind to their own interest as to cause their Pullers to abscond, or by harsh treatment reduce them to sickness. It has been the custom (he further remarks) to describe the Pullers as the lowest order of society, involved in wretchedness and misery, and reduced to a condition scarcely superior to that of the cattle which they follow at the plough; but so far as it relates to this class of people in Trichinopoly, it is highly erroneous, in as much as there is no class of people generally so athletic or tall in stature as the Pullers." Mr. Campbell also remarks, "that if a judgment may be formed from the appearance of the aggressive slaves in the Tamil country, which is generally that of stout athletic men, their food is not deficient either in quantity or quality." And it is observed by the same officer who speaks of the use of the cane, that many of the slaves attain to a very great age, a proof, he adds, that they are not worked beyond their strength.

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Collector of Tinnevely in 1819. Slavery in India, 1828.

Collector of Trichinopoly in 1819. Ibid.

It is implied in some of the remarks quoted above, that the slave has it in his power to quit his master's service if he is ill treated. It does not appear that he has a right to do so. The following observations of the present Principal Collector and Magistrate of Tanjore illustrate what is meant. "So long as a slave chooses to remain with his master he does so, and leaves him for a better at pleasure. Nothing but a civil suit which would cost more than 10 years of his labor can recover him, and being recovered, there is nothing to prevent his walking about his own business as soon as he has left the Court which has pronounced him to be the property of another." The Magistrates, it seems, decline to assist the master to recover a run-

* The Abbe Dubois says "the Pariahs of India in general are not to be considered in any other light than as the born slaves of the other tribes, at least there is as great distance between them and the other castes, as subsists in our colonies between the planters and their slaves. These lead not a harder life than the Pariahs, and the usage of both is equally severe." "The most of them sell themselves with their wives and children for slaves to the farmers who make them undergo the hardest labors of agriculture, and treat them with the utmost severity."

These remarks were written however about 25 years ago, since which it would appear there has been much improvement in their treatment.

away slave, and leave him to his own resources, which the slave defies. Under these circumstances, mutual interest appears to be really the bond between them. The slave is willing to render perpetual labor to his master by himself and his family, for the sake of a perpetual maintenance, for which, those who work for hire are often at a loss, and the master is constrained to use him well, that is, well enough to make his condition on the whole not worse than that of the free laborer, from the fear of losing his valuable services. It is said, that" the Pullers very rarely quit their masters, a certain sign, that they are generally well treated."

Magistrate of Trichinopoly.
Appendix IX.

CORRECTION OF SLAVES.

Coimbatore.

North Arcot

Appendix IX

As to the right of the master by law and custom to coerce his slave by personal punishment we shall only remark here that it was held by two of the five Collectors who noticed the point in the reports made in 1819, that the master had this right, one remarking, that he was supposed to be vested with despotic authority over his slaves and with power to punish them, and the other that the power of the masters over their slaves is unlimited, except of course where the law intervenes to prevent cruelty and murder. The three others considered that by former usage the master had the right, but that it had ceased to be exercised under the British rule. Of the officers who reported in 1835-36, four are of opinion that the master has the right to correct his slave by moderate personal chastisement if he fails to perform the work assigned to him, three of them expressly referring to the Circular Order of the Fouzdary Adawlut under date the 27th November 1820, as sanctioning it. This order which appears to have been overlooked by the other officers, who say generally that the slave is equally entitled to protection from the Courts against his master, as a free person against another, we shall have occasion to notice more particularly in another place.

MAINTENANCE IN OLD AGE AND INFIRMITY

It is asserted generally, that masters are bound to provide for the maintenance of their slaves, when they are unable to work from age or infirmity, and it is this certainty of a perpetual provision which is supposed to reconcile the slave to his condition. On this point however Mr. Campbell observes "I am by no means satisfied that due provision is made for the support of agrestic slaves in sickness or in old age. Their masters are no doubt bound to support them; but in the absence of any summary means on the part of the Civil Magistrate to enforce this obligation, I fear the poor and infirm slave is too often left to the slow and doubtful remedy of a lawsuit against his master, or to the uncertain charity of his brethren stinted in their own means." The Collector of Tinnevely* in 1819 stated, that the slave could *claim* nothing more than a bare subsistence *while he worked* and his *sotuntrum* (or allowance from the produce) at the time of harvest. The Assistant Judge of that district in 1835-36, on the other hand says, that the slaves when they become infirm and useless, are still fed by the masters.

The Principal Collector of Madura particularly states, that it is understood, that the protection which the master is bound to afford, has been generally rendered in seasons of calamity and scarcity, whilst free cultivators were perishing from want.

* It appears however from the report of the Collector of this district that the slaves "have the vast advantage of being employed during the whole year" which he thought with occasional bounties compensated for their daily allowance being only half of that of the free labourer.

The agrestic slaves, it appears, are general provided with separate dwellings ; in Tanjore, as already noticed, they are allowed the privilege of occupying a piece of ground as a garden free from tax—whether a similar provision is made for them elsewhere does not appear.

Their marriages are made at the expense of their masters, and they enjoy some little gratuity at every birth. It was stated in 1819 by the Collector of South Arcot, that “slaves cannot enter into matrimonial connection without the consent of their owners, who, as they defray the expenses of the marriage, virtually revive the contract of hereditary bondage, for the offspring of slaves are *always* regarded as the property of their father’s owner.” But in a report made at the same time by the Collector of Chingleput, we find it averred on the contrary, that the claim to the children of a slave “does not always rest with his immediate proprietor. In the event of his marrying with one of the families belonging to his master, the children all become his property ; but should he marry with a female slave of another person, the children of such marriage mostly become the property of the proprietor of the female, though in some villages the custom is otherwise ; and in the event of a female slave having children previous to her marriage, their disposal depends upon the custom of the village, as they sometimes become the property of their master, and are sometimes made over with herself to her husband upon their marriage.” Again it is stated by the Acting Judge of Chingleput in 1835-36, that “if a female slave marries a free person and has issue, the master can claim the female progeny, and the husband the male progeny, and the husband cannot carry his wife away without the consent of the master ; and when it happens that the free husband consents to become the slave of his wife’s master, the master can claim the services of both the male and female progeny.” In general it would appear that among the Puller and Pariar, the Children born to a man in a state of bondage are slaves to his master. The present Collector of Madura, however, confines the right of the master to the male issue, “the female issue being at liberty to go where they please.” And the Assistant Judge of Tinnevely says, “the females are always allowed to live with their husbands, whether the latter belong to their masters or to strangers. The stranger in such case has the benefit of the work she performs, but she still continues to be the property of her master, and her children as soon as they are able are obliged to work for him. The women (he adds) appear to be of little value as respects their labour, yet their price is generally higher than that of a man of equal age and qualifications, owing of course, to the above arrangement.” This statement, we observe, is contrary to the exposition of the Hindoo law on the point, by the Law officer of the Provincial Court, Southern Division, by which it was declared, that “the wife of a slave is also the slave of the master,” on the authority of a verse from Jugganardyen, importing that, “the husband and wife are one and the same,” and one from the Smriti Chandrika in the chapter concerning slaves, viz. “The husband is master to his wife, if that husband be a slave, although his wife be born of free parents, she is also a slave.”

With respect to property, the Collector of Coimbatore in 1819 observed, that “the master possesses a power, not only over the person but over the property of his slave, and he may make use of the cattle reared by the slave for agricultural purposes.” The Principal Collector of the same district in 1835-36 remarks, that

MARRIAGES AND CHILDREN.

Slavery in India, 1828.

Ibid.

Appendix IX.

Ibid.

Ibid.

Annexed to Report of Provincial Court, 1836. Appendix IX.

PROPERTY. Slavery in India, 1828.

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"the general opinion with respect to the property of a slave is, that whatever belongs to a slave belongs to his master, but without the consent of the slave, the master would refrain from taking any of his effects, even the cattle he might possess for agricultural purposes, nor could he take effects which the slave himself had purchased or received by free gift from the master. The property of a slave is derived from the master."

The foregoing observations however may perhaps be taken as referring rather to theory than to practice, since slavery is so little known in Coimbatore.

Slavery in India, 1828.

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Appendix IX.

The Collector of South Arcot in 1819 said, "the possessions and acquisitions of slaves are generally considered to be the property of their masters, who however usually relinquish them to the family of the slave." On the other hand, the Magistrate of Tanjore says, "no legal rights of masters over their slaves with regard to their persons or *property*, are recognized by the Magistrate in this district;" and we learn from Mr. Campbell's account before quoted, that in this district the Pullers are permitted by their masters the Meerassiders who confine their attention to the cultivation of the rice lands, to employ their spare time in the cultivation of the unirrigated lands as free laborers for others, or on their own account." And one of the Judges of the Provincial Court of this division, as we have before noticed, states, that their earnings by such extra labour enables them to acquire personal property; adding that "instances have been known, although rare, of slaves purchasing their liberty, by paying the amount which their master demands for his (their) freedom, or by procuring a substitute" The Judge, and the Magistrate of Madura, both say, that the agrestic slaves are not incapacitated from possessing property independent of their masters, and leaving it to their heirs. The former however observes, that should the slave die, the master generally takes possession of his property, and even during his life exercises authority over it, but rather with the consent of the slave than in virtue of any right vested in him as the master. The Assistant Judge of Tinnevely states, that the slave "is permitted to amass, whatever by his diligence he may acquire, such acquisitions however are very rare." "When not required to work for their masters they are permitted to work for hire, and by this means some have attained the means of purchasing their freedom." The Sub-Collector and Joint Magistrate of the same district writes to the same effect, as to the right of the slave to appropriate what he gains by working for others, when his master does not require his services. It appears, therefore, on the whole, that whatever the right of the master may be in theory, practically it is not exercised, and that any property the slaves may acquire by labouring for hire when their masters have not work for them on their own lands is at their own disposal.

EMANCIPATION.

Slavery in India, 1828.

The Assistant Judge of Tinnevely in the above quotation, speaks of slaves purchasing their freedom, though he adds, "they can seldom procure it for less than double their own value. The price of a well bred strong young man very seldom exceeds 20 rupees, yet there are few candidates for the honor of being free at the sacrifice of a comfortable and certain provision." Except this and the statement of the Judge of the Provincial Court quoted above, we do not find any notice of agrestic slaves purchasing their freedom. "It does not appear," said the Collector of South Arcot in 1819, that "enfranchisement of slaves ever takes place; yet as some owners have been reduced to indigence, and are unable to employ or subsist their

hereditary slaves, those persons are ostensibly free, and labor for any person who will employ them. Cases of emancipation occur in the extinction of the owner's families, and from this description of Sudras who still sacrifice their liberties, modern slaves are constituted, for they are mostly very needy and consent to perpetual and hereditary bondage for about 20 or 30 Pagodas, which the cultivator advances for the celebration of a marriage ceremony. In no instance, I believe, do engagements exist where a laborer discharges such a loan by his manual labor." So strong do the slaves esteem the obligation they lie under to their masters, that many instances, it is said, have occurred of their voluntarily supporting them, when they have fallen into adversity by the earnings of their labor, instead of seizing the opportunity to abandon them, and obtain enfranchisement. The Assistant Judge of Tinnevely, in 1835-36, stated that at that time, a landholder in that zillah was in the daily receipt of half a measure of grain from each of his 500 slaves. Another striking instance will be found in the extract from the Report of Mr. Place given above.

Appendix IX

It does not appear that in the Tamil country, agrestic slaves have been sold for the recovery of arrears of revenue. The Collector of Tinnevely, in 1819, stated that it was usual for the Tahsildars in giving an account of the property of a person offering himself as a security to include his slaves, but he had always rejected them as unavailable property to the Sircar. It is observed by the Board of Revenue that in *Malabar alone* have any slaves been sold for arrears of revenue.

Slavery in India, 1828.

Ibid.

It is stated in the minute of the Acting 3rd Judge of the Provincial Court for the Southern Division, already quoted, that "no instance has of late years occurred of a slave having been put up to auction by order of a Court, although repeated instances have occurred of Courts being moved to do so." But we observe, that in the district of Tinnevely so late as 1831, after the date of that minute, a sale of slaves took place openly before the auxiliary Court in satisfaction of a decree; and we find that the Judge at Coimbatonum, in a report made by him in 1832, remarked that the records of his Court shewed that sales of slaves under the orders of the Court had taken place in the Trichinopoly Division of that zillah. We apprehend however that it may be assumed with certainty that slaves are never sold now in these districts, in execution of decrees.

Report of Assistant Judge, 1835-36, Appendix IX, Slavery in India 1838.

The domestic slaves in the Tamil country are comparatively few and from the accounts given of them, which we proceed to notice, it would appear that the term slavery is scarcely applicable to their condition.

DOMESTIC SLAVES.

They are divided into two classes.—1. Those employed as domestic servants.—2. Females attached to companies of dancing women.

In Tanjore with a population exceeding a million, according to Mr. Campbell, there are not above 100 or 200 "house or domestic slaves," meaning no doubt slaves employed as domestic servants in private houses and families, thus excluding those attached to the companies of dancing women belonging to the Hindoo temples, of whom probably the number is considerable in that district where such temples abound.

Tanjore

In Trichinopoly, the neighbouring district, the only slaves, not agrestic, it is stated, "are among the dancing girls employed in the Hindoo pagodas, some

Slavery in India, 1828.

of whom are purchased in infancy from indigent parents, who have no other means of providing for them." The number of this description however it is supposed, is not great. "Numerous examples occurred in former times (said the Collector of South Arcot in 1819,) of Mahomedans purchasing Hindus as domestic slaves, whom they circumcised and converted to their religion ; but I am informed, these cases are rare now. Brahmins and other superior classes purchase Sudras also for domestic purposes, and the persons so purchased are constituted hereditary slaves. The class of dancing girls are also in the habit of purchasing young girls chiefly from the kykullee or weaver caste for the purpose of educating them in their profession ; and the children of those girls, if females, continue to form a portion of the company to which their mother was attached."

Appendix IX.

The Judge of Madura states, that "rich natives, principally in seasons of scarcity or famine, buy children of both sexes, and train them up as domestic servants, or they purchase the services of grown up persons who voluntarily sell themselves as bondsmen in times of difficulty, sometimes *for life*, sometimes for a term of years. These slaves are fed and clothed, and sometimes married at their masters expense. Should they afterwards prove thieves and rogues they are turned adrift, and on the other hand should they dislike their master's service, they leave it and seek shelter and service elsewhere. Yet no appeal to the authorities is ever made in such a case for the recovery of a slave." "*Mussulmans* also purchase *Hindoo* children from their parents and others. This also most frequently happens in times of scarcity, when their parents are starving themselves and unable to support them, but sometimes the children are stolen or kidnapped and sold to them. Such slaves rise to so much consequence in the family in which they are brought up, that they are no longer regarded as slaves, but become as members of the family ; they almost always become converts to, or are brought up from infancy, in the Mahomedan religion, and married to females of the same faith, but of a lower grade. After three generations however, their descendants are considered pure Mussulmans and are admitted to all rights and privileges as such." "Dancing women are in the habit of purchasing female children of the better castes as slaves, whom they bring up in all the accomplishments peculiar to their own profession. But these girls, after they grow up, claim equal right to the property of their mistresses as if they were their own daughters, and after their death perform their funeral rites and become heirs to their property, after which they become entirely free ; they are in fact, to all intents and purposes, on the same footing as adopted children." A nearly similar account is given by the Principal Collector and Magistrate of Madura. He observes, that the domestic slaves can hold no property ; and that all the property acquired by girls purchased by dancing women, belongs in fact to the female by whom they were originally purchased, to whom however they often become heirs. He refers to a proclamation published by a former Magistrate prohibiting the purchase of slaves,* in consequence of which it is supposed that the number of slaves in these two classes has decreased, but not of

Ibid.

* A translation of the proclamation of the Magistrate of Madura referred to above, which is dated 4th October 1824, has been furnished to us. It forbids all persons to buy or sell children as the Regulations do not authorize it, and notifies that children who may be purchased will be immediately restored if claimed by their parents.

agrestic slaves. Both the Judge and the Magistrate observe, that slavery as it exists in this district, is more generally a blessing than a curse.

The Assistant Judge of Tinnevely mentions that slaves are to be found of all the tribes of the Sudra caste as well as the Pariar, employed in the lighter labors of the field, but chiefly about the house. He observes, that among the higher classes of slaves, the daughters are always reserved, if of pure blood, for the Harams of their masters or their relations, "and from the offspring of these alliances are taken wives for the male slaves." "From this system of connexion (he remarks) probably arises the confidence which is reposed in a female slave by a master of her own caste. She is employed in washing, bringing water to the house, and attending his children and is exempt from all laborious duties." The Magistrate of this district, in 1825, brought to the notice of the superior authorities that the custom which he believed to be more or less prevalent throughout the Madras territories, "of the sale and purchase of female children by dancing women for the avowed purpose of bringing them up to a life of immorality," was more common in Tinnevely than elsewhere, and recommended that it should be prohibited by law, observing that this prohibition would serve as a check upon child stealing which he said was occasionally practised under the pretence of purchase. The Collector of Tinnevely, in 1832, also mentioned this class of slaves, composed of female children bought by dancing women "for devotion to the service of the Pagoda deities." These he stated are "never purchased after their earliest youth and are brought up with much care as to their accomplishments, to prepare for the duties afterwards expected from them." Both this officer, and the Joint Criminal Judge, stated, that the children, to recruit this class of slaves, are generally procured from other parts of the country, particularly Travancore. The latter said, he believed they were treated by their purchasers for the most part as if they were their own daughters.

Slavery in India,
1828. p. 934.

Slavery in India,
1833.

Regarding the condition and treatment of female slaves in the families of Mussulmans in these districts little is known.

FEMALE SLAVES IN
THE FAMILIES OF MUS-
SULMANS.

It appears to be the general opinion, that the treatment of slaves, in the Tamil country, has become more lenient under the British rule, particularly with regard to their persons. In former times, the discipline exercised by masters over their slaves, it is stated, was of a very severe description; but we gather that it has been mitigated latterly, from a general impression that the spirit of our Government is unfavorable to slavery, from an apprehension that the power of inflicting punishment upon a slave is not sanctioned, and that the exercise of it might subject the master to a penalty, and from the non-interference of the Magistracy to help the master to recover a slave who has been driven by ill treatment to run away, making it the interest of the master to conciliate him as the only means by which he can secure his services; and there seems to be no ground to believe, that the limit of moderate correction is commonly exceeded.

TREATMENT OF
SLAVES UNDER BRI-
TISH RULE.

PROVINCE OF MALABAR.

Buchanan's Journey
thro' Mysore, Malabar,
and Canara.
Asiatic Researches,
vol. 5.

App. IX. X. XI.

Slavery in India 1828,
p. 844.

Agrestic Slaves.

Respecting the state of slavery in Malabar we have drawn much valuable information from the reports of Mr. Baber, formerly Judge and Magistrate of that district, and afterwards a Judge of the Provincial Court, of Mr. James Vaughan, a former Collector, and of Mr. Græme who had a special commission to enquire into the state and condition of the country and people, which are to be found in the volume of Papers on Slavery in India, printed by order of the House of Commons in 1828; and from the papers contained in the second volume printed in 1838, particularly one drawn up by Mr. F. C. Brown, the proprietor of an estate in Malabar chiefly cultivated by slaves, whom he possesses by inheritance from his father Mr. Murdoch Brown, the manner and circumstances of whose acquisition of them, is a subject much discussed in the correspondence which occupies a considerable part of the former volume. We have also referred to Mr. Baber's answers to the questions of the Board of Control contained in the appendix (Public) to the Report of the Select Committee of the House of Commons, dated 16th August 1832, and to the printed accounts of Dr. Buchanan and of Mr. Jonathan Duncan (formerly the President of the Commission for the management of Malabar, afterwards Governor of Bombay.) The other papers, we have had under consideration, are reports made by the local officers and courts in 1826 and 1835, and some more recent reports of the present Principal Collector and Magistrate which will be found in the Appendix.

It appears that agrestic slavery prevails throughout the province of Malabar; but comparatively speaking in North Malabar to a very small extent; increasing gradually from the northern extremity of the province to the southern and eastern boundaries.

The number of agrestic slaves in Malabar, exclusive of Wynaad, was estimated in 1819, at about 100,000, of which number perhaps $\frac{1}{8}$ was in N. Malabar, $\frac{2}{3}$ in the Centre Talooks, and the remaining $\frac{1}{8}$ in the S. and E. Talooks.

In N. Malabar it appears the land is cultivated chiefly by the owners and hired coolies; but in S. Malabar $\frac{1}{8}$ of the cultivation, more particularly of the rice land, is carried on entirely by Chermas or slaves.

By the census taken in 1833, the number of slaves of all descriptions, as stated by the Principal Collector,* was 1,40,933. Mr. Brown† however, in the paper mentioned above, remarks, that the periodical census being taken according to the different castes, it comprehends, under the general denomination of slaves, besides those who are actually in slavery, all those of the servile castes who are possessed of independent property in land and paying revenue to Government; all those who, like the voluntary‡ settlers on his property, are dispersed, in yearly increasing numbers

* Note of Mr. Clementson, Principal Collector, upon Extract of Mr. Græme's report, annexed to his letter, dated 19th December 1835. App. IX.

† Mr. Brown says the number of the Census of 1833 was 1,16,202. He observes that the house slaves are included in the enumeration of the free castes. Since this was written we have seen a late report from the magistrate of Malabar in which the number of slaves of all descriptions according to the last census (the date not mentioned) is stated at 1,11,371 or about one-seventh of the whole population.

‡ Mr. Brown states that he possesses by inheritance 155 slaves male and female, and has also upon his property, 105 other slaves voluntary settlers of 10 and 20 years habitation. Of his own slaves some have been 36 years upon the property.

throughout the country, working for themselves, and free to go wherever they please, to better their condition; and all those, a still larger number, who are settled in the neighbourhood of the towns on the sea coasts, and there deriving an independent livelihood. All these persons, he remarks, although belonging to the servile castes, have passed from the state of serf bondsmen to that of proprietors and free laborers, and they are in complete enjoyment of all the personal liberty consistent with Hindoo institutions.

The slave population appears, from the information to which we have had access, to be on the increase, contrary to the opinion expressed by Mr. Baber in his answers to the questions of the Board of Control in 1832.

App. (Public) Report
Sel. Com. H. of C. 16th
Aug. 1832.

Major Walker, one of the officers first employed in this province, in his report on the tenures of Malabar, observes that "the Chermas or slaves of the soil are said to have been reduced to slavery in the following manner.

ORIGIN AND NATURE
OF THIS SLAVERY.
Major Walker's report
slavery in India 1838. p.
806.

"The Bramins, when * Parasharum divided amongst them the lands, represented to him that without assistance they must remain uncultivated; accordingly Parasharum went in search of the wild people, who at that time inhabited the jungles, collected them and presented them to the Bramins. They were thenceforward considered as jenn,† and continue to this day to cultivate the lands in Malabar."

He states that "the Chermas are absolute property; they are part of the live stock on an estate. In selling and buying land it is not necessary that they should follow the soil; both kinds of property are equally disposable and may fall into different hands. The chermas may be sold, leased, and mortgaged, like the land itself, or like any cattle or thing."

"In the same manner as the soil, the possession of chermas was originally confined to a particular class. They were then employed entirely in the labors of agriculture, but though they were the first and sole cultivators in Malabar, it is not to be imagined that this is the case at present, since there are many Kudians of all castes who cultivate their own lands."

Mr. Græme, in the report made by him as Commissioner in Malabar, observes, that "slaves are said to have been introduced by Parasarama, for the tillage of the ground, at the time he gave the country to the Bramins. By others they are said to have derived their origin from the Hindoo law, or at least to have had their numbers multiplied under the operation of it. Individuals became outcasts or chandalas by sins against the laws of their castes, and subjected themselves to servitude."

Slavery in India, 18.8,
p. 911.

Mr. Vaughan says, "By the laws and customs of the country it is as impracticable to reduce a free-born subject to a state of bondage, as it is contrary to them to emancipate a slave; and once a slave always a slave may be considered a motto to be prefixed to the subject of slavery in Malabar according to the ideas of natives." "Slaves now in existence have been slaves from their birth, they are descendants of slaves whose origin must be traced in the traditionary legends of

* See Dr. Buchanan's Journey through Malabar &c. vol. 2, page 318, for this tradition; also Historical Remarks on the Coast of Malabar by Mr. Jonathan Duncan in 5th vol Asiatic Researches.

† Absolute property.

Malabar." Mr. Brown also says "in Malabar individuals become slaves by being born in the castes, which, according to the Hindoo religion, are servile." Dr. Buchanan, Mr. Vaughan, and Mr. Brown, agree that though in a certain sense slaves of the soil, they are not attached to particular lands, but may be transferred separately. Mr. Græme also says they may be sold with or without the land.

Appendix Report Select Committee. p. 424

"Of agrestic prædial slavery, (says Mr. Baber) the origin is of very remote antiquity: the general term given for this description of slavery is *adami*, or literally, as I understand the term, serf, aboriginal, or indigenous, being held previously under the same tenures and terms, as the land itself, throughout, under some slight modifications, the Malabar Coast. By the common law or Dosh-achary, this slavery is fully recognized, having existed from time immemorial, but not so absolute as has obtained since the Malabar Coast provinces came under the Company's Government, namely of disposing of them off or separate from the soil, the land of their birth, which I consider decidedly at variance with, and in innovation of, that law, as observed in ancient times, and in this opinion I consider myself borne out as well by the traditionary legends of their origin, as by the fact I have before mentioned, of the tenures and forms of sale of slaves being precisely the same as of lands. Such a practice is moreover inconsistent with the due observance of their religious ceremonies, every part of Malabar having its tutelary deity, and all classes of slaves have their household gods (their lares and penates) to whom in particular, they perform the same ceremonies that all other castes that are free born do to theirs. They likewise cherish the memory of their ancestors, and consecrate a spot of ground where all the members must meet and make offerings."

In support of this view Mr. Baber quotes from a report of the Commissioners, of whom Mr. Jonathan Duncan, afterwards Governor of Bombay, was President, on the first settlement of Malabar in 1793, as follows.

"They (Poliars and Chermas)* are considered in a great degree in a state of vilenage and as bondsmen to the soil, though they are not properly or lawfully objects of slavery, like slaves in the full extent of that word, unless they happen to be made over as part of the stock, at the same time that the master, the Bramin or Nair landholder, should have disposed of the land on which they live."

CLASSES SUBJECT TO THIS SLAVERY.

(a) Singular, Cherna or Cherman, plural, Chermar.

According to Mr. Brown the subdivisions are...20 According to the Circuit Court and Mr. Sheffield. Appendix IX. 18.

The agrestic slaves of Malabar are known generally by the name of cherna, (a) but they are sub-divided according to Mr. Græme into 21 classes or tribes viz.—1 Kulladee,—2 Kunnakun,—3 Yerlun,—4 Allur,—5 Punnian,—6 Parayan,—7 Numboo Vettoovan,—8 Kongolum,—9 Koodummer,—10 Nuttalum, 11 Malayen,—12 Koorumber,—13 Punni Malayen,—14 Adian,—15 Moopen,—16 Naiken,—17 Poolyan,—18 Waloovan,—19 Ooratee,—20 Kurrumpallen and 21 Moovilen. Of the above, it appears, that the Punnian, Adian, Moopen, and Naiken are chiefly to be found in Wynaad.† The largest class is that of the Poolyan which according to an account taken by Mr. Sheffield, Principal Collector, in 1827,

* Mr. Duncan in a note to historical remarks in the 5th vol. of the Asiatic Researches, gives an account of the castes of Malabar, received from the Rajah of Cartinad in which the 'Poliars' are described as 'bondsmen attached to the soil in the lower part of Malabar, in like manner as are the Punniers above the Ghauts.'

† Mr. Græme remarks that in Wynaad all the field work is done by slaves called Punnians, who are held in higher estimation than the slaves of the lower district. They are admitted to the thresholds of their masters' houses and are employed in grinding rice for the use of the temples.

as quoted by Mr. Baber, comprises about one half of the whole slave population exclusive of Wynaad. Next to it is the Kunnakun.

According to Mr. Brown the principal classes are ; 1, the Vettowan ; 2, the Erchen or Yerlen ; 3, the Kunnakun ; 4, the Malien, or Malayen ; 5, the Punncen or Puniun ; 6, the Polcen, or Poolyan ; 7, the Parcen, or Parian of the Coromandel Coast ; and the above is the order of their precedence. " Even among these wretched creatures, observed Dr. Buchanan, the pride of caste has its full influence ; and if a Churma or Poolyan be touched by a slave of the Parian tribe, he is defiled."

Slavery in India, 1838, p. 419.

The Poolyan, says Mr. Brown, must remain 10 paces from the Vettowan. The Parian the like distance from the Poolyan ; and the Nyadee a free man, but of a caste lower than the lowest of the slaves, 12 paces from the Parian. The distinctions arising from caste among these classes is illustrated by Mr. Brown by an example taken from the practice between people of the Vettowan and Poolyan classes upon his own estate. " They meet and work together on all working days, but on leaving work the Vettoowans invariably bathe ere they return to their houses or taste food. After bathing they utter the usual cry and warn the coming Poolyan to quit the road and retreat to the prescribed distance. Their houses are obliged to be 40 paces distant from the Poolyan's ; they desert their houses when less : they will not frequent the same roads, nor buy at the same bazar ; there being a separate one kept by Mahomedans for the Poolyans ; nor will the children intermix in each other's games on a common play ground." " They are subdivided," says Mr. Vaughan, " into distinct castes or sects, observe different forms of worship, have their separate and peculiar customs, and regulate their economy in conformity to the customs handed down from father to son, from generations the origin of which is lost." Mr. Grane observes that " the different castes of slaves keep up a distinction between each other and do not intermarry or eat together. With the exception of the castes of Parian and Kunnakun, the other castes of slaves abstain from eating or slaying the cow. These circumstances, (he remarks,) tend to strengthen the idea of their having been out castes, and having adopted the habits of castes from which they originally sprung."

With respect to the observances of the slaves towards people of the pure castes Mr. Grane states, that " the rules of Malabar prescribe that a slave of the castes of Poolyan, Waloovan, and Parian shall remain 72 paces from a Bramin and from a Nair, and 48 from a Tecan. A slave of the Kunnakun caste 64 paces from a Bramin and Nair, and 40 from a Tecan ; and the other castes generally 48 paces from a Bramin and Nair, and 24 from a Tecan. In the Northern division, (he observes,) these rules are deviated from in practice in favor of the slaves, whilst in the southern division they are thought to be exceeded in strictness."

Slavery in India, 1838, p. 320.

See also Duncan's " Remarks" in Asiatic Researches, vol. 5,

Mr. Brown states that the slave castes cannot approach nearer than the prescribed distances, either to the houses or the persons of the pure caste, without polluting both the one and the other. Accordingly " the lower servile classes wherever they go, give notice of their coming by uttering a particular cry at every 4 or 5 paces ; if the cry be answered by another uttered in like manner by a superior, giving warning that he is approaching, the slave instantly quits the road and retires." " The Polyan is interdicted the highway as his

presence would pollute the houses situate upon it. 'The only exception (he says,) that I know to this restriction is in the towns on the coast, particularly Calicut, where from the presence and the countenance of Europeans and their own numbers, Polyans may be seen on the highway. Upon my own property where we have been settled so many years and in my own neighbourhood where we possess some influence, the restriction is so rigidly enforced that my Polyans cannot approach, much less walk through the village inhabited by the free laborers; they cannot work on the lands near their houses, and when at work upon my own lands at a distance, or walking upon my own roads, they are obliged to leave their work, and quit the road if a child, able to speak, utter the usual cry of warning and superiority."

Public Appendix Rep.
Scl. Com. p. 337.

"So very impure are all castes of slaves held, (says Mr. Baber,) that they are obliged to erect their huts at a distance from all other habitations; neither are they allowed to approach except within certain prescribed distances, the houses or persons of any of the free castes; those distances vary from 72 to 24 paces, as well with reference to the caste of the several grades of free men as to their own, and even among these wretched creatures the pride of caste has its influence. If a slave accidentally touches a Bramin, he must purify himself by prayer and ablution, and by changing his poonool (Braminical thread.) Hence it is that slaves are obliged to leave the road and call aloud from as far off as they can see a Bramin coming. Nairs and other castes who purify themselves by morning ablutions, if polluted as above, must fast and bathe."

(a) Poolyan, Waloovan
Ojuter, Kurrimpallen
and Mavilen,

Of the classes enumerated and denominated above, those named^(a) in the margin follow the custom of "Murroo Mukkatayum" defined as "inheritance* by sons to the right of their mothers," or, rather, of their mothers brothers; and the others that of "Mukkatayum" or "inheritance by sons to the right of their fathers."

In the Calicut district, however, Mr. Græme observes, "there is an anomaly in the general system among the Poolyan, the Kulladec, and the Kunnakun, which are the only castes of slaves residing there. There is a mixture of the two customs of Mukkatayum and Murroo Mukkatayum, that is, the one or the other does not obtain separately in different families in the District, but in all the families throughout the District, the inheritance partakes of the two modes, and half of the children are considered to go with the mother, and consequently to belong to her proprietor, and half to be attached to the father, and therefore to be the property of his master. Where the number may not admit of an equal division, the odd number is reckoned to be the mother's."

Mr. Græme states that "the wife of a Poolyan and of all the castes who observe the Murroo Mukkatayum, may be sold separately, and may, therefore, belong to a different master from the master of the husband, but she cannot be separated from her husband; she must be allowed to remain with him. She is purchased separately in consideration of her future offspring, which by the custom of Murroo Mukkatayum would become the property of her purchaser. In the other castes the females are not separately saleable; neither the wife nor her female children.

* For an account of this custom of inheritance among the Nairs which has been adopted by other classes. See Buchanan, vol. 2, p. 412. Also Thackeray's Report No. 23. Appendix 5th Report Select Committee of House of Commons 1812, p. 801, and Duncan's 'Remarks,' Asiatic Researches, vol. 5.

The daughters become the temporary property of the masters of their husbands, but this right of property ceases on the death of the husband, and the wife returns to the house of her father."

The Court of Circuit, for the Western Division, state generally that the offspring of a female slave who observes the "Mukkatayum," begotten before marriage, becomes the property of her owner; those born in wedlock belong to the husband's master, but the mother after the death of her husband becomes the property of her former owner. The issue of a slave who observes the Murroo Mukkatayum becomes the property of the female's owner. Exceptions however are mentioned in the Talook of Koorumbarnaud and in Wynaad. In the former, it is said, the first born goes to the male's master, but should there be no more, a valuation is put upon the one and the amount divided. In Wynaad a valuation is put upon the offspring and the amount divided between the owners of the male and female slaves. It is not stated how, in the latter case, the children are disposed of.

Appendix IX.

According to Mr. Sheffield, the Magistrate of Malabar, whose report is referred to in that of the Court of Circuit last cited, in all the tribes of slaves except the Poolyan, the female slave on her marriage leaves the estate of her own master and accompanies her husband, with whom she resides, and her master cannot oblige her to return to his estate unless she survive or be divorced from her husband. With regard to the Poolyan tribe who observe the Murroo Mukkatayum, the prevailing custom in the Chowghaut, Kootnaud, Ernaud, and Betulnaud districts, is for the husband to reside in the house of his wife; in the remaining talooks, the wife invariably resides in her husband's house. In every part of the province, he says, the usage decidedly imposes upon the master the obligation to allow their married slaves to live together. Mr. Holland, the Judge, states the same.

Mr. Sheffield states that in Temalapoorum, with the exception of the Pariar and Kunnakun castes, females are purchased and given in marriage to the male slaves by the masters; but that this custom does not exist any where else.

It is usual, he says, for the male slave to present the owner of the female, on the occasion of their marriage, with a few fanams, and some articles of trifling value, with which he is supplied for the purpose by his own master; but nothing more is given to the owner of the female slave.

The female slave, he adds, while* living with her husband, works for the latter's master from whom it is not customary for the owner of the former to demand compensation, nor is any thing paid to him by the master of the husband for the loss of her services, the latter is however bound to maintain the wife as long as she resides with her husband. After his death she is sent back to her own master. The male Poolyan slave, who resides at the house of his wife, goes daily to work for his own master. The owner of the wife cannot, in any manner, command his services.

Mr. Vaughan states that "no valuable consideration is given by the male for possession of the female, to her owner. The contract may be dissolved at the pleasure of the parties."

* Dr. Buchanan observes that the females are allowed to marry any person of the same caste with themselves, and their labor is always exacted by their husband's master, the master of the girl having no authority over her so long as she lives with another man's slave; a custom which he notices with approbation as one that ought to be recommended to the West India Planters.

Mr. Baber remarks that "altho' the ceremony of marriage is observed it is not indissoluble; the man may separate from his wife, and also, provided he has her consent, part with her to another, on his paying back to his master his marriage expenses, which seems but just since he originally defrayed them, and must again, if his slave take another wife."

Dr. Buchanan also remarks, speaking of the Poolyan, that when a man becomes tired of his wife, and she gives her consent, he may sell her to any other person who will pay back the expense incurred at the marriage. A woman may leave her husband when she pleases. If she choose to go back to the hut of her parents, they and their master must pay back what they received for her; but if she choose to co-habit with any other man, the whole expense is lost. They are however, he observes, "seldom guilty of this injustice." The marriages of the Pariars, he says, are similar to those of the Poolyan.

The whole cost of a marriage, which is defrayed by the master, he states, is about 24½ fanams, or 16 shillings 1d. ½.

SALE OF SLAVES.

In describing the nature of the agrestic slavery in Malabar, it has been shown that the slaves are not now considered as attached to the soil and privileged to abide on the estates on which they have been born and bred, and practically are treated as the absolute property of their masters, and subject to transfer,* with or without the land, like any other stock; tho' Mr. Baber, on grounds which are deserving of attention, contends that the practice of selling slaves off the land of their birth is a modern innovation.

Public Appendix Report from Select Committee, p. 421.

He censures the practice as cruel and oppressive; asserting that it has the effect "of separating husbands and wives, parents and children, and thus severing all the nearest and dearest associations and ties of our common nature;" but it will be seen from the information we have cited, that he is in error as to the separation of husband and wife.

"How or whence the practice originated" he observes "it would be difficult to say; but I have no doubt, and never had in my own mind, that it has derived support, if not its origin from that impolitic measure in 1798, of giving authority to the late Mr. Mudock Brown, while overseer of the Company's† plantation in Malabar, to purchase as many slaves as he might require to carry on the works of that plantation."

P. 591 to 598.

From the correspondence on this subject which will be found in the volume of papers on slavery in India, printed in 1828, it is evident that the practice did not originate in the order of the Bombay Government, referred to by Mr Baber, the purchase of slaves having been sanctioned by that order, expressly "on the ground of its not being incompatible with the subsisting regulations for the province." This is clear also from the report of Major Walker quoted above. And we find that while the company had only a factory at Tellicherry long before the acquisition of the Territory, the transfer of slaves was recognized and sanctioned by an order of

Slavery in India 1839, p. 663.

Appendix IX.

* The Provincial Court, say that the competency of the master to transfer the slave by sale, mortgage, or lease, has never, they believe, been disputed or doubted; but they add that no final decree has ever been passed by the Court, whereby property exclusively in slaves (that is without reference to the land to which they belong) has been recognized, or rejected.

† This plantation appears to have been made over by the Company to Mr. M. Brown, and is now in the possession of his son Mr. F. C. Brown, of whose information on the subject of slavery in Malabar we have largely availed ourselves.

the Government of Bombay requiring such transfers to be registered in the office of the Factory, on the parties attending and proving how the vendor became possessed of the slave. But it is worthy of observation that the Commissioners in Malabar declined to permit Mr. Brown to purchase slaves, without the express sanction of Government, observing that although they were persuaded that under Mr. Baber's superintendence, none of those evils could arise which the first Malabar Commissioner's proclamation, prohibiting the sale of slaves, was well calculated to prevent, yet they were fully aware that it might encourage the vicious part of the community to plunder the weaker class of ryots. They, therefore, considered this mode of procuring labourers, especially in the then state of the country, as impolitic. They feared, it seems, that encouragement would be given to the stealing of slaves from their masters, or the kidnapping or enslaving of free persons. It is to be remarked, however, that the order they referred to, which was passed in 1793, did not prohibit the sale of slaves within the Province, but "the practice of shipping kidnapped and other natives as slaves."

Slavery in India, 1838
p. 681.

This was pointed out by Mr. M. Brown, in his reply to the Commissioners; and the Government of Bombay, (of which Mr. Duncan, who as Commissioner had passed the order, was the head,) appears to have acquiesced in his construction of it.

Ibid, p. 597.

But there can be no doubt that the practice of buying and selling slaves separately from the land, derived support from the sanction given to it by Government in this instance, and in another mentioned by the Judges of the Court of Circuit, (in their report upon the proceedings of Mr. Baber in the case of certain kidnapped children, who were discovered on Mr. Brown's plantation in the condition of slaves,) in which "a considerable number of bondsmen,—who were the property, and found on the estate of a person named Shinoo Putten, formerly Cariakar of the Rajahs of Koormanaud, whose property was confiscated on account of his having gone into rebellion,—were about the year 1800-1 transferred to Mr. Brown's charge to be employed on the plantation."

Ibid, p. 698.

And without entering into the question of Mr. M. Brown's conduct, in the case alluded to, it may be remarked, that the admission of the Court of Circuit, (whose views on the subject differed very much from those of Mr. Baber,)—that it was "very apparent that numbers of the inhabitants of Travancore had been introduced (into Malabar) in a state of slavery, and but too often reduced to this situation by every criminal means,"—justified the apprehension of the Commissioners: under which they had been unwilling to give any sanction to a practice so likely to lead to abuse. It is further worthy of notice, that the abduction of slaves "sometimes with their consent, frequently without it," is reported to be a common offence "causing serious affrays, when not unfrequently the unfortunate Chermers, the flesh of contention, are sufferers for the crimes of others."

Slavery in India, 1838.
p. 403.

It is gratifying to us here to observe, that the Government of Madras has lately come to the resolution of emancipating the slaves upon Government lands in Malabar; which has been approved by the Court of Directors;* and that the practice of

App. X.

* The same has been done in Coorg as will be shown more particularly in the sequel.

Slavery in India 1828,
p. 386.

realizing arrears of revenue due to Government by selling slaves off the land,—which, Mr. Baber remarks, cannot fail to have confirmed proprietors in the too ready disposition to consider their slaves as much property as any chattel or thing,—was long ago abolished. And we may also remark here, that we have not found any late notice of the practice of kidnapping slaves and free persons, in Travancore, and elsewhere, to supply the demand for slaves in Malabar; the suppression of which traffic is probably owing greatly to Mr. Baber's exertions.

Slaves may be sold* then, according to the practice which has prevailed, if not from the first, yet as far back as our records extend to, with or without the soil, and Mr. Græme adds, “in a different place from that of their birth or of their usual residence; they may be disposed of in another Talook, but it must be contiguous, and that seems the utmost extent to which the power of removal goes. It is not customary at least, (he says,) to send them to a great distance, and such a measure would be considered unwarrantable, cruel, and, if not justifying, at least causing, desertion.”

SLAVES LET OUT FOR
HIRE OR MORTGAGED.

“They may be let out,” Mr. Græme states, “on simple rent or mortgaged under the deeds of Veerompatum, Puneyum, Kanum, Wottic, and Uttipair.”

No. 23, Appendix
5th Report Select Com-
mittee House of Com-
mons, 1812.

From the descriptions of these deeds† as applied to land, we understand that the first two are forms of lease, and the others mortgages. Under each form of mortgage, the slave, we apprehend, is delivered over to the mortgagee, and by the last the mortgage is foreclosed, and the property irrevocably and completely transferred.

Buchanan's Journey,
vol. 2 p. 370.

Dr. Buchanan explains that “there are three modes of transferring the usufruct of slaves. The first by Jenmam or sale, where the full value of the slave is given, and the property is entirely transferred to a new master, who is in some measure bound by his interest to attend to the welfare of his slave.” “A young man with his wife will sell for from 250 to 200 fanams, or from £6. 4s. to £7. 8s. 11½d. Two or three young children will add 100 fanams, or £2. 9s. 7½d. to the value of the family. Four or five children two of whom are beginning to work, will make the family worth 500 to 600 Fanams, or from £12. 8s. 3d. to £14. 7s. 11d.” “The second manner of transferring the labour of slaves is by canum or mortgage. The proprietor receives a loan of money generally ⅓ of the value of the slave; he also receives annually a small quantity of rice to shew that his property in the slave still exists; and he may reassume this property whenever he pleases to repay the money borrowed, for which, in the mean

* Mr. Brown says slaves are sold, but rarely in the present day at pleasure, for this reason, that if they abscond, the purchaser is left to his own means to recover them. He therefore takes care previously to ascertain whether they are willing to become his slaves and often gives them a trial. They may be sold in legal execution for the debts of their masters, but custom imposes a strong restriction to selling them separate from their families, even if their low value did not make the inhumanity gratuitous.

Appendix IX.

+ The Assistant Judge of Malabar in 1835-6 submitted with his report the forms of the deeds in use viz:

1. deed of sale absolute—full value received.
2. do. of mortgage, slaves made over to mortgagee.
3. do. of lease, apparently for the year.
4. do. of pledge as security for the performance of a contract for the delivery of a quantity of paddy, if not delivered, the slaves to be made over to work out the interest of the debt due by the contractor.
5. Deed of transfer of a debt for which a slave was mortgaged: it is not expressed, that the slave is included in the transfer.

A document certifying the transfer of slaves (without land) by sale in execution of a decree was also submitted by the Assistant Judge.

while, he pays no interest. In the case of any of the slaves dying, he is bound to supply another of equal value. The lender maintains the slaves, and has their labor for the interest of his money and for their support. The third manner of employing slaves is by renting them for patom or rent. In this case for a certain annual sum, the master gives them to another man, and the borrower commands their labor and provides them with their maintenance. The annual hire is 8 fanams, 3s. 11½*d.* for a man, and half as much for a woman.”

In Mr. Græme's report is a table taken from the written testimony of the principal inhabitants of each district which he observes “ may be presumed to shew, in an authenticated state, the sums for which the slaves are generally leased, mortgaged, and sold.”

By this it appears that the price of a male varies from 40 to 250,* gold fanams ; of a woman from 25 to 210 ; of a boy from 10 to 100.†

The proportion of the amount for which a slave is mortgaged to his price on sale, is apparently on the average about $\frac{1}{3}$, as stated by Dr. Buchanan : but we observe that the maximum amount advanced on mortgage is, with respect to several of the castes, stated as high as the sale price.

The rent‡ for which slaves are let out by the year is stated lower than in Dr. Buchanan's account, the highest for a man being 7½ gold fanams, and varying from that to 3 gold fanams.

We observe that in the table given by Mr. Græme, in several of the castes, females are omitted, as if they were not subject to sale, lease, or mortgage. And we see that Mr. Holland, Judge of Malabar, in 1826, mentions that he has “ heard it said that the females of the Kanaka and Erala castes were, previously to our acquisition of Malabar, considered as exempted from bondage.” He “ doubts whether this usage is allowed by slave owners to exist at present,” “ but alludes to it as matter for enquiry.” Females of the two castes here mentioned we remark are omitted in the table.§

Mr. Græme observes that “ it is very generally admitted that the price of slaves has risen since the Company's Government ; this is attributed to the increased demand for them ; and the demand again owes its rise to the tranquillized state of the country, to an extended cultivation, and to a greater number of Tecans and

* According to Mr. Græme's table 3¼ gold fanams are equal to a rupee, which, at the present official rate of exchange is equal to 2 shillings.

† Mr. Baker remarks upon the same table, that the largest sum, the highest class slave will fetch, is 250 old gold fanams equal to £5. 5s. and the highest rent 7½ *fs.* per annum, equal to 3s. 9*d.* but the average selling price of all is 132 old gold fanams equal to £3. 6s. and average annual rent 5*fs.* equal to 2s. 6*d.* ; while the prices of the lowly Pooliar Cherimas who compose more than half the aggregate slave-population, are still less than the lowest of the other castes.

‡ In a list of slaves on Government lands in Malabar, ordered by the Madras Government to be emancipated, the annual rent for a male is stated at various rates, from 6 as. 1 p. to 2 Rs. for a male, and from 4 as. 7 p. to 1 R. 11 as. 5 p. for a female ; and the price for a male from 12 Rs. 8 as. to 25 Rs. 9, 3 and for a female from 10 Rs. to 42 Rs. 13, 9, the highest price for a male being equal to about £2. 17s. and for a female £1. 5s.

§ In *Spieria's* Appeal No. 2, of 1828, on the file of the Zillah Court of Malabar, which will be found in the Appendix IX, wherein 3 male and 3 female Cherima slaves of the Kunnaka caste were the subjects of action, Mr. Holland admitted the Special Appeal on the ground that Kunnaka Cherima females were not before the time of the English Government subject to the slavery which their male relations suffer, and no subsequent law authorizes the aggravation of slavery in any way. In this opinion the Hindoo Law Officer a Native of Palghat in Malabar concurred. And the Judge, Mr. Maclean, who disposed of the case, passed a Decree accordingly, dismissing the claim to hold the females as slaves, and directing the original plaintiff to bring a fresh suit for the male slaves alone.

others, of the lower classes having become cultivators of land, than was usual under the former custom of the country." But if any judgment can be formed from the partial statement of the assumed prices of the slaves lately emancipated on the Government estates, it would lead to a contrary inference, for the present time,—the highest price for a male slave there given being below the average in Mr. Græme's table.

The following table of the allowances to slaves compared with those to free laborers in the different districts of Malabar is extracted from Mr. Græme's report.

	Daily Allowance of Paddy for			Daily Allowance of Paddy for a free labourer.
	A Male Slave, Female Slave.		Total.	
	MacLeod Seers.	MacLeod Seers.		
Calicut,	1½	1	2½	2½
Betulnad,	1½	1	2½	2
Chowghaut,	1½	1½	3	2½
Temelpore,	1½	1½	3	2½
Palghaut,	1½	1½	3	2½
Waloovanad,	1½	1	2½	2½
Ernad,	1½	1	2½	2½
Nedoonganad,	1½	1	2½	2½
Shernad,	1½	1	2½	2
Koorumbanad,	1½	1	2½	2
Cavoy,	1½	1	2½	2½
Cherikal,	1½	1	2½	2½
Kartnad,	1½	1	2½	2
Kotiote,	1½	1	2½	2½
Tellicherry,	1½	1	2½	2½

"N. B. The rates here mentioned may vary in respect to the price of paddy."

Mr. Brown states that the above table is substantially correct: but, with reference to the note subjoined to it, he affirms that the rates are invariable, whatever may be the price of paddy. It will be observed that the allowance for a male and female slave together, is generally rather more than a free labourer can earn, independently of what may be gathered by his wife and children,—the proportion of the male slave's allowance taken separately, being to that of the free laborer generally about as 3 to 5.

These appear to be the full allowances which are given only when the slaves are required to work, as noticed below.

Mr. Baber remarks, with reference to the same table, that nothing is there stated as allowed to young or aged, but adds, that it is within his own knowledge that this is generally half what able bodied men and women receive, provided they do some work. Dr. Buchanan says, children and old persons past labour, get one half, but no allowance is made for infants.

Mr. Græme.

Besides the ordinary allowances, masters "give presents of clothes, oil, or grain, or a few fanams on a birth, death, or marriage, in the family of a slave," and on other occasions. And in the harvest time slaves are entitled to the crop of certain portions of the different fields as a compensation for watching them.

In the caste of Pooliun which is considered the most industrious and docile and most trustworthy, a further fee of the same description is given to a kind of head

Mr. Baber.
Dr. Buchanan says one-twentieth of the gross produce.

Mr. Brown one-tenth of what they daily reap and gather.

Mr. Græme.

man whose duty it is to prevent the inroads of cattle on a large tract of rice land belonging to different masters." Mr. Baber states that many of the Mopilla or Mahomedan part of the community, allow their slaves during working seasons, cooked rice, or conjee, (rice water,) at noon, and their treatment of their slaves generally is more liberal than that of their Hindoo neighbours.

"In most places, (Mr. Græme* states,) slaves are fed by their masters throughout the year, but their allowance, on days that they have no work, is only half of what is fixed when they are employed.† In several places on the Coast, however, they are only paid when they work, and when not employed by their masters, they seek subsistence elsewhere. In the neighbourhood of large towns this is no hardship, on the contrary, they acquire much more in carrying grass, firewood, and other things, to the market, and in working for others, than they can get from their masters: and slaves in this situation are in finer condition, more intelligent, and more cheerful, than they are elsewhere. The only hardship to them is that they are obliged to obey their master's requisition for attendance upon an inadequate allowance." With respect to those who reside "in those remote parts where there is no demand for their labor, (Mr. Baber says,) they are left to eke out a miserable existence by feeding upon wild yams, and such refuse as would only be sought after by that extreme wretchedness "that envied the husks that the swine did eat," and not unfrequently are they tempted by the cravings of hunger to rob gardens of jack, (arto carpus) plantains, (musa) cocoanuts, &c." "But the slave, (says Mr. Græme) is scarcely ever exposed to the extremity of actual starvation and it has been stated by respectable public authority, and I understand with correctness, that a beggar of this caste is seldom or never to be found." In another place, however, he observes that the slave in the interior is a wretched, half starved, diminutive creature, stinted in his food, and exposed to the inclemencies of the weather. And he again remarks that "their diminutive and squalid appearance‡ sufficiently indicates that they do not enjoy that comfortable state of existence which every person should at least have it in his power to acquire by his labour." He remarks at the same time that there are no doubt many free men "who are equally indigent with the slave." Common free labourers, he says, are able to procure work for eight months only in the year, or 20 days of each of the 12 months.

* Mr. Vaughan says the proprietor is bound to see the fixed allowance served out to his slaves daily. A frequent failure on the part of the master to perform this duty, is sure to be attended with desertion to another, from whom they expect kinder usage, and when this does take place, the recovery of them is attended with difficulties that are not easily overcome, for independently of being obliged to have recourse to Courts of Justice, months and years perhaps elapse before they can discover to what place the slave absconds.

Mr. Græme mentions that the slaves in the districts adjoining the Coorg country shew their sense of ill treatment by deserting thither.

† Mr. Græme notices that in the Palghat district, slaves have what they have not in others, employment throughout the year; when their presence is not required in the rice cultivation they have to bring wood for fuel and building from a distance, which is not necessary in the districts where the cocoanut grows in abundance near the houses of the inhabitants.

‡ Dr Buchanan observes that the ordinary allowance would be totally inadequate to support the slaves, but on each estate they get one twenty first part of the gross produce of the rice in order to encourage their care and industry. Yet their diminutive stature and squalid appearance shew evidently a want of adequate nourishment. Mr. Brown however affirms that in point of food and in other respects, their condition is not widely different from that of the bulk of the lower castes of free labourers; and this is stated also by the Principal Collector.

CLOTHING.

With respect to clothing, Mr. Baber* states that "the allowance consists of a waist cloth, called moond, to men, and moori, signifying a fragrant, to women: it is just large enough to wrap round their loins and is of the value of from one to two fanams, equal to from 6d. to 1s. ; in some districts this is given but once a year, but more generally twice, at certain festivals, which fall in September and May. None of the women (Hindoos) wear upper garments; there is a colloquial saying "chaste women require no covering, prostitutes only require to cover themselves." As a substitute for these waist clothes, it is very common with slaves, especially in the retired parts of the country, to use or wear bunches of leaves, generally of the wild plantain tree, supported by a fibre of some tree or vine."

Mr. Baber mentions, that female slaves, particularly those belonging to Mopillas, "neglect not to adorn their persons with necklaces of cowry-shells, glass-beads, and brass bracelets, finger and ear-rings."

Dwellings.
Dr. Buchanan.

"The slaves erect for themselves small temporary huts, that are little better than large baskets. These are placed in the rice fields when the crop is on the ground; and near the stacks while it is thrashing." The slave, (says Mr. Graeme) "has his sieve of a hut in the centre of the rice lands."

"They are permitted to dwell together in huts at a certain distance from the house of their master when the crop is not on the ground."

EMPLOYMENT.

With respect to their employment, Mr. Baber says, "it is always in agricultural pursuits because they are more expert in them than any other class of the people; these however are not confined to manuring, ploughing, sowing, harrowing, hoeing, reaping, and thrashing, but they are likewise employed in fencing, tending cattle, watching the cattle, and even in carrying agricultural produce, it not being customary to use carts or cattle in the transportation to market; and when the harvest is over, in felling trees, and preparing materials for house building, &c. and this without intermission of a single day, so long as their master can find employment for them." "The slave has to toil from morn until evening, with no other sustenance than his morning's conjee, (rice water,) and evening meal, after which he has to keep watch, by turns, at night, in sheds erected on an open platform in the centre of the paddy field, several feet under water, exposed to the inclemency of the weather, to scare away trespassing cattle or wild animals." Mr. Brown says, "field slaves, are employed and are worked in the same way as free laborers. In North Malabar they may be seen working apart in the same field with their Nair master and his family. Like them, they are employed in raising the staple productions of the country, rice, pulse, pepper, cocoanut, betelnuts, cardamums. They do not work in gangs, nor under a driver, but as farm-servants do in England under a bailiff. They work from 9 to 10 hours a day, all the days of the week, except the customary holidays and festivals† if their master has work for them; if not they seek for work elsewhere; in crop time they probably work harder, because they are paid one tenth of what they daily reap or gather. Task work is known and used; the lash is not used to either sex to make them work if they are well, and if they do not come to work, they are not paid."

* According to Dr. Buchanan a male slave annually gets 7 cubits of cloth, and a woman 11 cubits.

† "Our slaves," says Mr. Brown "have always had Sundays to themselves besides."

According to Major Walker,* “the Jenmankar (or absolute proprietor) by the ancient laws of Malabar, is accountable to no person for the life of his own Chermas, but is the legal judge of their offences, and may punish them by death if they should appear to deserve it.” “The Kolloo-naven (a temporary and conditional master by mortgage, or lease, we presume,) can neither put to death a Cherma nor sell him, but he may chastise him.” Mr. Græme however says, “it is not admitted that the proprietors of slaves had, at any time, the power of life and death over them; that measure of severity was never executed except under the sanction, of the Nadwallah of the district, in particular cases, but generally, of the Rajah.”

POWER OF MASTERS
OVER THE PERSONS OF
THEIR SLAVES FOR COER-
SION AND CORRECTION,—

“Their authority over them extended only to corporal punishment, and confining in the stocks, and they still chastise them for petty offences.”

But from the written† statements of the inhabitants of the different districts of Malabar, in answer to queries from Mr. Vaughan, it appears that in former times greater severities were exercised by the master, and that mutilation by cutting off the nose was not an uncommon punishment; at present, it seems, corporal punishment, not so severe as to injure the body, is usual, to which is added confinement and putting in the stocks, and when the slave is very refractory he is occasionally made to labour in chains. Mr. Baber affirms, that he has repeatedly observed on the persons of slaves marks and scars from stripes inflicted by the rattan. The Pundit of the Provincial Court himself a slave owner, says that the masters inflict punishment for misbehaviour by a few stripes on the back with a rope, or a thin branch. The Sherishtadar, and Malabar moonshee, of the same Court, say that further than punishing for refusing to remain under them or neglect of duty or misconduct, masters do not ill treat their slaves, though instances have been known of such punishment having occasioned mortal injury. The assistant Judge of Malabar, observes that “by the Hindoo law, owners may inflict moderate corporal punishment upon their slaves for petty offences, slaves submit to such chastisement without making any complaint. In cases of serious ill usage, masters have been punished on the prosecution of the slaves without reference to their relation.”

Slavery in India, 1828,
p. 847, et seq.

Appendix IX.

Mr. Græme says, “the slaves of Malabar are equally well defended by the British law against any enormous stretch‡ of power, as any other subjects of the British Government; and the Collector and Magistrate of the province, (he observes,) declares§ that there have been few complaints of ill usage, though instances have not been wanting of the proprietors having been brought to justice for wounding and murdering them.” But he remarks upon this statement, “if the ill usage alluded to, is that of corporal punishment, or of neglecting to supply a proper quan-

* Mr. Vaughan also says, apparently upon the authority of Major W., that “in former days the proprietor possessed the power of life and death over his slaves; but this was probably seldom or never had recourse to.”

† See Mr. Baber's comments p. 128, Appendix I. Report of Select Committee of House of Commons 16th August 1832.

‡ In another place he says against injury to their *lives* or *limbs*, or any great severity of ill usage; Mr. Brown understands that the precise condition of the servile castes under British law, as to *life* and *limb*, is the same as that of freemen, that they are recognized to be to the same extent under the protection of the Civil Magistrate.

§ Mr. G. here alludes to Mr. Vaughan who said the slaves might be considered as well protected by the laws as any other race of beings, but from the tenor of his preceding remark it seems that he meant only that in respect to *life* they are equally safe.

tity of food, it must be observed, that in most places slaves have been too entirely dependent upon their masters, and the interference of the magisterial authority has hitherto been so systematically withheld from regulating the modus of their daily food, that they could not, with any regard to the interest of themselves and families, resort to a higher power. Even the cases of wounding and murdering are probably brought to notice more by the agency of the police officers than of their own accord."

Mr. Baber averred that "there was hardly a sessions of gaol delivery, the calendars of which (though a vast number of crimes are occurring which are never reported) did not contain cases of wounding and even murdering slaves, chiefly brought to light, by the efforts of the Police; though generally speaking, they are the most enduring, unresisting and unoffending classes of the people."

INSTANCES OF CRUELTY
Slavery in India, 1828,
p. 907.

In a report made by him, as Judge of Circuit in the Western Division, Mr. Baber brought to the notice of the Foujdaree Adawlut two cases of murder, in which the deceased were slaves, "one had deserted, it was supposed, from ill treatment; the other had, through hunger, stolen a few handfuls of the paddy he had been set to watch," and proposed, among other measures for ameliorating the condition of the slaves suggested by the instances of mal-treatment which the calender exhibited, that all personal injuries done to a slave by his master should be estimated like personal injuries in other cases. It was upon this occasion that the Foujdarry Adawlut issued the order to which we have several times adverted, declaring the law as expounded by their law officers with respect to the power of the master to chastise his slave, and his liability to punishment for exceeding that power. The following is the exposition of the law officers. "Under the Mahomedan law, a master is competent to inflict correction (tazeer) upon his own slave. If, therefore, the master should, in a lawful manner, correct his slave for committing an act by which tazeer is incurred, he is not liable to punishment; but if a master should chastise his slave without his having been guilty of any offence incurring tazeer, or in the event of the slave having committed such an offence, if the master should not correct him in a lawful manner, but treat him with violence and cruelty, the master would be liable to tazeer."

Ibid, p. 908.

"The Court, under the foregoing exposition of the law, considered that the existing regulations sufficiently provide for the punishment of owners of slaves, who may treat them with cruelty; and with a view to discourage and prevent as much as possible, the practices alluded to by the third Judge, they directed that the several Magistrates be desired to make public the foregoing provision of the Mahomedan law, by a circular notification to the Police officers under their jurisdiction respectively, and that they be enjoined to apprehend all persons charged with cruelty towards their own slaves, in like manner as they are directed to apprehend persons charged with other crimes of a heinous nature," observing that "it will be the duty of the criminal Judges in such cases, whenever the acts established in evidence, may appear to demand greater punishment than they are competent to inflict, to commit the offenders for trial before the Court of Circuit."

Ibid p. 907.

In another Circuit report, in 1823, Mr. Baber officially brought forward a case tried by him in which evidence had been given of the barbarous mutilation of slaves

by cutting off their noses.* Upon this case he made the following observations.

“Adverting to the facts elicited during the foregoing trial, it will no longer be denied that cruelties are practised upon the slaves of Malabar, and that our Courts and Cutcheries are no restraints upon their owners and employers; for whatever doubts may exist, with regard to the exact period of the death of the Cherooman Koorry Noryady, or to the immediate cause of his death, there can be none as to the fact of his nose having been amputated, as well as those of three other slaves belonging to the same owner; and that although the case had come before the Magistrate, no steps had been taken to bring the perpetrators of such horrid barbarities to justice. Upon the latter head it may be argued, that the slaves themselves preferred no complaint: but if it is to depend upon the slaves themselves to seek for the protection of the laws, their situation must be hopeless indeed, for having no means of subsistence, independent of their owners or employers, their repairing to and attending upon a public Cutchery, is a thing physically impossible, and even though those provisions of the regulations that require all complaints to be preferred in writing, were dispensed with in favor of slaves, and they were exempted from the payment of tolls at the numerous ferries they would have to pass, and though an allowance were made to them by Government, during their detention at the Cutcheries and Courts, unless forfeiture of the right of property over slaves was the penalty for ill usage, their situation would only become more intolerable than it was before they complained.”

In reviewing Mr. Baber's report, the Foujdaree Adawlut observed, that the instances of barbarous cruelty mentioned by him had occurred some years before, and adverting to the order above noticed they expressed a hope, that no act of this nature could now be perpetrated, without bringing exemplary punishment upon the offender. They desired that “instructions should be given to the parbuttees and potails to apprehend any person guilty of an act of cruelty towards his slave; and that, when the potail may be the offender, the Curnum or Shanabogue should report the case to the Tahsildar.” They ordered that “the Magistrates should also be enjoined in their circuits, to enquire particularly as to whether offences of this nature are allowed to pass without notice, and that all instances of connivance at the ill-treatment of slaves on the part of Police officers should be severely punished.” “It might also be useful, (they remarked,) to cause a registry to be made of individuals who have suffered the mutilation, of which instances are given in the Report, with a view to ascertain whether similar atrocities continue to be committed.” And, finally, the Court observed, that “the perpetrators of any of the cruelties, instanced by the third Judge, who may have committed them since the general regulations were put in force in the provinces of Malabar, were of course liable to punishment, notwithstanding the time which might have elapsed since their perpetration.”

Ibid. p. 926.

In a report made some years after by another Circuit Judge, of the same Division, we find further mention of ill-treatment, to which the slaves are occasionally subject.

Slavery in India, 1838, p. 404.

* Amongst the witnesses for the prosecution, two Chermas appeared who had been thus mutilated.

Slavery in India, 1938
p. 428.

Dated 17th July, 1839,
Appendix XX.

It is to be observed, that only acts of cruelty are contemplated as punishable, the right of the master to chastize his slave moderately, being recognized by the order referred to, which remains in full force for the guidance of the Magistrates and officers of Police and the Criminal Courts. The order was specially noticed in a report from the Sudder and Foujdaree Adawlut to Government, under date the 18th April, 1831, in which it was stated that "the Judges did not think that the correction which a master may lawfully inflict on his slave can be defined with greater precision than is done by the Law Officers in their opinion, recited in it." And in a late report referring to an observation made by the Government of India, that "much variance in the practice of Magistrates exists, as to recognizing the right of moderate correction, by a master, of his slave," the Judges remark "that the Circular Order of the Foujdaree Adawlut of the 27th November, 1820, has laid down a uniform course of procedure in this respect, and that in as much as no specific penalty is prescribed in the Regulations for assaults exceeding the jurisdiction of the Magistrate under Section 32, Regulation IX. of 1816, the Criminal Judge is required under the provisions of Section 7, Regulation X. of 1816, as illustrated by the Circular Order of the 29th January, 1828, to be guided in such cases by the Mahomedan Law, which does not make a master liable to punishment for correcting his slave in a lawful manner, for an offence incurring discretionary punishment under that law."

Appendix IX.

We must note, however, that the Judges of this Court in 1836, in submitting the answers of the subordinate Courts and Magistrates to the questions of the Law Commission took occasion to observe, that though under the Circular Order in question, "the Magistrates might recognize the right of a master to inflict tazeer on his own slave in certain cases therein specified, in practice it would appear that no such distinction is made."

Ibid.

And it was said by the Magistrate of Malabar at the same time, that "the relation of master and slave has never been recognized as justifying acts which would otherwise be punishable or as constituting a ground for mitigation of the punishment; and by the Criminal Judge, that no distinction is recognized in the Criminal Courts between a free man and slave; which statement is repeated by the Court of Circuit.

PROPERT.

Mr. Baber says, "there is no legal objection that I am aware of to slaves possessing property of their own, independent of their masters." "Out of all the examinations sent up by the late Collector Mr. Vaughan, there are but three wherein it is contended that whatever slaves may acquire, the master has a right to; and those are from the principal inhabitants of the less civilized country of Wynaad, where they have, I know, many peculiar customs; it is to be observed, that in neither of the other depositions is the right unequivocally admitted, they merely allow the possibility of the thing, coupled or rather qualified with the condition of doing their master's work. Mr. Warden mentions as a fact, within his knowledge, one of the Zamorin's slaves holding property of his own, though it is the only one he can call to recollection. Pandura Kanaken, an inhabitant of South Malabar, is, I imagine, the instance in question. In North Malabar there is one also named Karimbai Poolla, who has considerable property of his own, and is, I understand, quite independent of any master. Some of the slaves sow dry grains and cultivate yams, and

I have seen also a few plantain trees, and now and then a solitary jack tree, in the ground adjoining their chala huts, the fruits of which they enjoy, but the right in the soil and in the tree, is in the masters."

Mr. Brown states "they may and do acquire property for themselves, and hold it against their master."

Mr. Graeme observes, that "in Malabar a few individual instances are mentioned of slaves holding land on patom or lease, and of their being responsible for the Government revenue, it being entered in their names in the accounts, but these are very rare exceptions to the general rule."

The present Principal Collector, Mr. Clementson, states, that "in the Revenue Department the right of the slave to possess and hold land and other property is recognized equally with that of the free man," and that "in fact there are, at present, about 377 slaves holding land on different tenures, and each paying a revenue direct to Government of from 1 to 92 rupees per annum; he adds that "any complaint of the master taking forcible possession would receive the same attention and meet with the same redress as the complaint of a free man."

The Sheristadar and Malabar Moonshee of the Provincial Court, on the other hand say, that the possession of independent property by slaves is so rare that they doubt whether there are 8 or 10 cases in the whole province. In such case, however, the master cannot claim it during the life of the slave and his family, but the slave cannot dissipate or dispose of it, without the master's consent. The master becomes entitled to the property of a slave only when the slave has no heir.

Mr. Graeme observes that "masters are not entitled to the property of their slaves unless they die without heirs; but except near large towns on the Coast, it would appear that this privilege is not very profitable to the proprietor, as property is seldom made by slaves."

Among the questions addressed by Mr. Vaughan to the principal inhabitants, ^{MANU} in the several talooks of Malabar, in 1819, was the following, "If a Cherma be desirous of returning to his master the amount that he cost him, and thereby be free from slavery, will his master receive the cash, and free the Cherma? to which the answers were without exception in the negative; and expressed in terms to shew that the manumission of Chermas had never been contemplated by them as a thing possible.

We have already quoted Mr. Vaughan's own strong expression, that it is so contrary to the laws and customs of the country to emancipate a slave, "that once a slave always a slave, may be considered a motto to be prefixed to the subject of slavery in Malabar, according to the ideas of the natives." Mr. Brown says, "Hindoos of the servile castes are born such." "The caste, in the belief of the Hindoos, is indelible. No human law can unmake or in other words uncaste him (them) any more than it can uncaste a Bramin." "In this sense a slave's child though really free, necessarily belongs to the servile castes, and in this sense, therefore,

there can be no law either to hinder or promote his manumission." "But it is in the scope of British law, in matters unconnected with caste, to regard the servile man and the free alike, and thus to recognize by natural right, rather than by express enactment, the claim of the former to acquire and enjoy his personal freedom."

Mr. Baber says "there is no local act to hinder or promote the manumission of slaves; and though the Hindoo law will not allow to the ruling power, the right of granting manumission, there is no interdict against masters doing it."

We have already noticed the emancipation of the slaves* on the Government lands in Malabar by order of the Government of Madras which has been entirely approved by the Court of Directors; we have also shewn that there are, on Mr. Brown's estate, 105 persons of the slave castes, voluntary settlers, and free to go wherever they please to better their condition; and we have given his statement that the number of persons belonging to the several classes who, as he expresses it, have passed "from the state of serf bondsman," and have become free laborers and some even proprietors, "with the complete enjoyment of personal liberty consistent with the Hindoo institutions," is yearly increasing throughout the country, particularly in the neighbourhood of the towns on the Sea Coast. We have further shewn, on the authority of the Principal Collector, that there are 377 slaves, as they are called, entered in the public accounts as holding land and paying revenue direct to Government. We presume, that these people are only slaves by name as belonging to the servile castes, and that they are not actually under the dominion of masters. Thus it appears, that practically the bar opposed by custom to slaves obtaining personal freedom and becoming independent, has been removed, and that however appropriate the motto of "once a slave always a slave" may have been in past times, it is so no longer, except with respect to the slavery of caste. Upon this point we think the following observations of Mr. Brown are worthy of notice. "It is only by the predominance of this sentiment (reverence for the distinctions of caste as having a religious sanction,) that I can explain the slow progress which 36 years of persevering solicitude on the part of my father, and since his decease, on mine, have made, in raising our slaves in the estimation of their countrymen. Although they mingle daily at work with the free laborers, although they are uniformly protected and treated with the same justice and consideration, although the great improvement in their physical and intellectual faculties has placed the two races on a par, and although the slave is as free as the freeman to go unquestioned wheresoever he may please to better his condition, yet no nearer approximation has taken place between the two, and the same line of distinction exists almost as broadly as before, so that the time is not come when I can without public support claim for the slave the free right of way upon my own property; and I must still endure the pain of seeing a fellow-man, who will, at one moment, fearlessly approach, address, or pass me, retreat the next to a distance from one of my own servants."

* The number of slaves emancipated was 2009 of whom 1254 were fit for work—657 males and 597 females. The annual rent for their labor was Rupees 927. 13. Their estimated value at the average prices current in the country, Rs. 24,833 10. 5.

Since the foregoing paragraphs were written, we have had before us a report of the Principal Collector of Malabar, dated the 7th January 1839, upon the present state of the slaves. No alteration, he says, has taken place in the tenures upon which slave property is held, since the report made by Mr. Græme in 1822, (from which we have so largely quoted,) and little or no amelioration in the food and clothing of the slaves; "as regards their treatment however," he continues, "a decided improvement, from all I can learn, has taken place, and it may be said generally, that the slaves of South Malabar are by no means in a worse condition than many of the free field laborers in North Malabar, where there are few or no slaves."

Appendix XI.

"Though the landholds and proprietors of slaves," he adds, "still retain the power of mortgaging and letting them out for hire, as well as of selling them with or without the land, and the children without the parent,—still I have reason to believe, that the latter proceeding is seldom or never adopted, inasmuch as the purchaser would find it an unprofitable speculation; for in the event of the Chermas running away, which they invariably do if taken even to the adjoining talook, they get no assistance from the local authorities."

We must here observe, however, that, though the ordinary practice may be as represented by the Magistrate, there appear to be deviations from it occasionally. We find an instance reported by Mr. Newnham, Judge of Circuit, of the interference of the Joint Magistrate on the application of a person claiming a whole family as his slaves, and of his passing an order to deliver them to the claimant,—notwithstanding their denial of his right of ownership over them, which denial, the Judge thought, was made on good grounds. In this case, the Joint Magistrate having been directed by the Judge to make further inquiry, appears to have been induced to revoke his orders.

Slavery in India, 1
p. 436.

With the report above referred to, we received a correspondence which arose out of some remarks made by the First Judge of the Court of Circuit for the Western Division, upon the large proportion of the cases of murder tried at two Sessions in 1836 37, in which the crime was committed by Chermas, who he observed, "in the commission of such deeds appear to be void of all feeling, and perhaps will remain so till some measures be adopted for the improvement of their morals and present lamentable low condition in society."

Appendix XI.

13 out of 31.

A reference having been made to the Magistrate in consequence of these remarks, he stated, that in examining the accounts for the last ten years, he found that the murders committed by Chermas did not on the average amount to 5 cases, the number of persons engaged in them being less than 10, per annum; whereas the total number of murders committed by persons of all classes on the average amounted to 36,—the proportion committed by Chermas being about the same as the proportion of the slave population of the Province. We agree with the Magistrate in thinking that this result is rather creditable to the class of slaves considering their degraded state and their moral disadvantages compared with the more civilized classes.

With respect to their morals generally we find the following testimony given by Mr. Brown and Mr. Baber.

Mr. Brown says, "their habits and morals are those of men kept in a state of ignorance and great seclusion. Theft and drunkenness are the vices commonly imputed to them; of my own slaves I can aver with truth that those born on the estate,* are an industrious, honest, simple minded race, observers of truth, without fraud or guile, whose standard of morals, I believe to be at least on a par with that of the free castes."

Mr. Baber says, "with respect to the morals of the slaves, I should say, there is much less profligacy and depravity among them than among their more civilized countrymen; drunkenness is their besetting sin when they can get liquor; but except pilferings in plantations and grain fields, the higher crimes of gang or highway robbery are by no means common; when they have gone on plundering excursions it has generally been as coolies to bring away the booty: circumvention chicanery, fraud, and perjury, so common to all other natives are hardly known to them; but acts of ferocity and cruelty are too common." One of the Provincial Court Judges, quoted by Mr. Baber in support of the last observation, says, "they are as might be expected from the state of degradation to which they are reduced and held, absolutely brutal in their conduct and destitute of the knowledge of right and wrong. They are extremely malicious and vindictive, carrying the latter spirit to the most shocking extremities on occasions of the slightest provocation, apparently regardless of, or perhaps incapable of reflection on the consequences."

DOMESTIC SLAVES.

The Mahomedans in Malabar have domestic slaves of their own religion. "They live," says Mr. Græme, "in the house of their masters and partake of all the privileges of their religion. This kind of slavery is a social fraternity, and is a step to the best comforts and the highest honors of life among the Mussulmans. It is totally dissimilar in every essential point to the servitude of the Chermar."

Mr. Baber states, that they are Natives or the offspring of Natives of Arabia, but chiefly of Abyssinia, and called Wadawar or Golâms, who came over with, and are either the personal attendants of their Masters the Seyads (who pride themselves on being descendants of the prophet, and who are very numerous on the coast,) or employed in navigating the Arab, Mopilla, or Lubbee vessels, or in the service of the Tanguls or high priests of the Mopillas, in all the great Mopilla and other Mussulman families in the principal towns." It is stated by Mr. Strange, the assistant Judge of Malabar, that their number is very limited, but from Mr. Baber's account, it is evident, that they are more numerous than he supposed.

It has been stated, that there are no domestic slaves among the Hindoos in Malabar; but Mr. Baber says there are some, "the descendants of out caste persons (called Jade Brishta, and Polietta Penna) who had been excommunicated either through some aberration from caste rules, such as eating with, or the food cooked by, men of low caste, or from cohabitation with persons of lower caste than themselves, or within the prohibited degrees of kindred,—and of Brahmins convicted of

Mr. Græme.
Mr. Strange. Assistant Judge.

Mr. Brown denies that there can be domestic slavery among the Hindoos. He is right as to impossibility of it, but being the domestic slave of a Brahmin, but wrong in his general negation.

* It is due to Mr. Brown to note that the Magistrate of Malabar in suggesting the establishment of schools for the moral improvement of the slaves, observes, that this has been attained to a very satisfactory extent as regards the slaves attached to his (Mr. B.'s) estate at Anjiracandy.

robbery and theft, who had been sold by former Governments into slavery to Chitties, Mopillas, and to whomsoever would purchase them."

With respect to the Polietta Penna or degraded women, Mr. Græme explains, "that they were a source of profit to the Rajas; outcasts, not exclusively but chiefly of the Brahmin caste, they were made over to Rajas to take care of. As a compensation for their maintenance, and for the trouble of preventing their going astray again, the family of the outcast were in the habit of offering to the Rajas as far as 600 fanams or 150 Rupees. The Rajas then disposed of them for money, but their future condition was not exactly that of a slave. They were generally bought by the Coast Merchants called Chitties, by whom they had offspring who came to be intermarried among persons of the same caste, and in a few generations their origin was obliterated in the ramifications of new kindred into which they were adopted."

Mr. Baber also supposes that there are domestic slaves free born, but kidnaped and sold in childhood, quoting an assertion of the late Mr. M. Brown that "he could produce hundreds of them in every town in Malabar, there being few Mopilla or Christian houses in which there were not some of them," of the correctness of which he says he has no doubt.

KIDNAPPING.

There is sufficient proof, that the practice of kidnapping free born children in Travancore and elsewhere for sale in Malabar did exist: but as we have already remarked, it appears to have been put down chiefly by Mr. Baber's exertions. A case occurred at the French settlement of Mahé in Malabar in 1812. The local authority gave ready attention to the representation of the Magistrate on the occasion, and it appears from a report of the Magistrate dated 1833, that no other instance of the kind has been brought to notice.

Slavery in India, 1826, p. 904.

Ditto, 1838, p. 11.

We apprehend that if there be any domestic slaves properly so called among the Hindoos, the number is inconsiderable. It does not appear to be at all the practice for free persons to sell their children into slavery under the pressure of want. Indeed, the country is so favored by nature that a general scarcity of food approaching to famine, we believe is almost unknown.

TRAVANCORE.

In the Travancore territory, subject to a Native Prince, which extends along the coast, south of Malabar to Cape Comorin, prædial slavery obtains very generally.

In the Appendix will be found an account of it; from which it will be seen that in its main features it corresponds with that of Malabar. The origin is no doubt the same in both countries. As in Malabar the prædial slaves are mostly of the Cunnakun, Poolyan, and Parian castes. They are commonly attached to the glebe but appear to be sometimes disposed of separately. When their owner parts with them it is most frequently on mortgages, or on conditions which give him the power of recovery. Manumission is rare, and it is said, is not desired, though the condition of the slave is described as very miserable. In early times the master had power over

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his slave's life : but this has ceased ; and it is said that " personal chastisement is not often inflicted ; but they experience little sympathy." " In sickness they are wholly left to nature, perhaps dismissed in poverty, and in age often abandoned." They are treated capriciously, and, on the whole, rather rigorously. They are looked upon by the other classes with even greater contempt and aversion than in Malabar. They never possess property.

" A very considerable number of prædial slaves," it is stated, " belong to the Government, to whom they escheat as other property on the failure of heirs. They are partly employed on the Sirkar lands, partly rented out to the ryots," as they were on the Government lands in Malabar. The Vaidun, Oladuns, and Naiadees in Travancore, are described as slaves, in the report referred to ; but they are not considered as such in Malabar (though of still lower degree than the Cherman Tribes), and it would appear that in Travancore they are without individual owners and in much the same wild state as in Malabar.

Appendix XII.

In 1837 the Resident in Travancore brought to the notice of Government that the inhabitants of Anjengo, a small British settlement in that country, had been accustomed immemorially to hold slaves, and suggested that the practice should be prohibited, and the whole of the present slaves emancipated, " reimbursing their owners, for the amount they originally paid for them." The number of the slaves according to a list submitted by the Resident is 32 viz. 8 males and 24 females. The owners appear to be chiefly persons of Portuguese extraction. Most of the slaves bear Christian names, and it is presumed have been brought up as Christians. Some though entered in the list as belonging to particular masters are said to live by their own labour. Two are set down as beggars supported by the poor fund. The prices said to have been paid for them vary from 150 Gully Fanams ($7\frac{1}{2}$ to a Rupee) to 25.

CANARA.

Slavery in India, 1828,
p. 549.

The first notice of systematic agrestic slavery in Canara, which we find on record, is contained in a report of Mr. J. G. Ravenshaw. Collector of the Southern Division of that District, dated 7th August, 1801.

It is stated therein, that by far the greatest part of the slaves employed in agriculture are Daerds ; the whole number of them, men, women and children, being estimated at 52,022 divided into 3 classes, the Moondaul, Magore or Magor, and Mavey Daerd. The two former it is said will not eat the flesh of the cow ; the Mavey Daerd though he will not kill the animal will eat the flesh. In the Moondaul and Mavey sects, property descends from uncle to nephew ; a father gives up his children to their uncle. In the Magore sect property descends from father to son. A Magore and Moondaul will eat together, but it is not common. They never intermarry by consent, but if a Moondaul runs away with a Magore and marries or defiles her, certain proceedings take place, after which she is considered as made over to her husband's sect and become a member of it. Neither of these sects associate with the Mavey Daerd.

Of the Moondaul Daerd, in respect of service, the following account is given :
If a man goes to a landlord or other person, and says he wants to marry through

his interest; if the person consents, he gives him from three to four pagodas (10½ to 14 rupees) to pay the expenses of the ceremony; the Daerd as soon as married, brings his wife to his landlord's house and both are bound to serve him and his heirs so long as the husband lives. They receive cloths annually, the expense of which is 1½ rupee. The man receives 1½ and the woman 1 hany of rice daily, besides one mora of rice per annum between them. This couple have no claim over any children they may have born; they are the exclusive property of their uncle; but if he consent to their remaining with their father till they are grown up this may be done; and if when grown up, their father's owners give the males money to marry, they are bound to serve him and his heirs as long as they live. Whenever the uncle does not agree to their remaining with their father, when going away, he takes them, and his master pays them according to the work they do. As to the daughters, if their uncle agrees they may remain with the father till some person comes with their uncle's consent to ask them in marriage, they are then given up and bound to serve their husband's owner. In the event of the husband's death, his master has no right whatever over the mother and children, for whom the children's uncle is bound to provide, and they are bound to serve his master if he has work for them. If a man wants to marry a second time his master supplies him with money, but, in consideration of the extra expense, he stops the annual allowance, leaving the daily allowance. This sect may be called a life property on the male side; they are never sold, though they sometimes mortgage themselves. If a man who has no owner is distressed for money, he will borrow of some person whom he will agree to serve till he repays the amount; their owners may also mortgage them in the same way.

The Magore or Magor Daerds, it is said, are bought and sold, and thence they and their male heirs are bound to serve their master and his heirs for ever. Females remain with their father till married, after which his owner has no claim on them; they become the property of their husband's master.

The average price of a man and his wife, if purchased together, is from 4 to 5 pagodas, (14 to 17½ rupees). The owner pays only as many of the family as work for him. This sect are sometimes mortgaged as well as sold. At the time of purchase, a small piece of land with a cocoanut and jack tree upon it, is assigned to them. They receive the same daily allowance of rice and the same cloths as the Moondauls but not an annual allowance, the land and trees being considered equivalent. The master sometimes gives them a bullock.

Of the Mavey Daerd the following account is given;—If a person purchases a man and woman of this sect, and marries them together, they and their male heirs are bound to serve him and his heirs for ever—the purchaser pays the expense of the marriage. If the man dies and the woman marries again, the children she may have by her new husband are all the property of her owner, by reason of his having purchased the woman; but he has no claim whatever on the new husband. In cases when these people are not purchased, but merely bind themselves to service on account of some person having paid the expense of their marriage, as the Moondauls do, the same rules are observed as with them; but there are many of these sects, who belonging, or being, as it were, an appurtenant to an estate, are bought and sold therewith; they enjoy the same privileges and allowances as

those of the same sects who are purchased without an estate. The landlord can neither sell or mortgage them, nor can they, without the landlord's consent, mortgage themselves or children.

It is stated generally, that an owner is only bound to give daily subsistence to as many of the family of his Daerds as he employs ; if he has more than he requires, he may lend them out to other people who pay him an annual allowance of one morah of rice, as a sort of quit-rent or acknowledgement that the Daerds they employ belong to him.

Daerds cannot go to work for another person without their owner's consent, and they are bound to return whenever he may have work for them.

Exclusive of the Daerds, Mr. Ravenshaw said, there was another sect of slaves in Canara, though he believed many of them had become free. He further stated that under the Biddnore Government, all illegitimate children, save those by dancing girls, were considered the property of the Sircar, which took possession of and sold them as slaves to any person who would purchase them ; the number of this sort at the time he wrote was about 722 ; there were also, he said, many slaves imported from Arabia.

In a further report dated 12th August 1801, Mr. Ravenshaw observed, that nearly the whole cultivation of the country was carried on by the Daerds and slaves of other sorts, and that " an estate without a property in some of these people would be of little value, because day-laborers are not to be procured in this as in other countries." He stated, that several landlords had suffered considerable loss from their Daerds and slaves having enlisted into sepoy corps ; in consequence of which he submitted to the Board of Revenue the following questions ; 1st, Whether it be politic to allow the Daerds whom he described as " conditional servants for life or for ever," to enlist in any of the Company's corps ; 2d, Whether there exists a right to recruit them ; 3d, Whether it be politic to allow any description of slaves to enlist, without the consent of, or the owners getting some remuneration for the loss of their services Referring to the following definition of slavery, vizt: " an obligation to labor for the benefit of the master, without the contract or consent of the servant, the master at the same time having the right to dispose of him by sale, or in any other way to make him the property of a third person," he said, " That sect of the Daerds who are bought and sold, and who come nearest to the description of slaves, differ from them in the following respects : 1st, Their service is *conditional*; a master at the time of service, agrees to give them the usual allowance of rice, cloth, &c. if he fails and refuses to do which, the Daerds are no longer bound to serve him, and can recover the balance of allowances due to them and their children. If the purchaser agrees to give the established allowances, the Daerds cannot refuse to enter his service ; but if from any real cause they have a dread of their man, the old master will generally, on being asked, keep them until he can get another purchaser. A master cannot make a traffic of them ; that is, he cannot put them up to public sale, or transport them either by sea or land to any place where there are not people of their caste ; as which is confined to Canara, they can never be sent out of their own country: they can even refuse to be sold out of the Moganny, in which they are born and bred. Such is their strong and rooted attachment to the

place of their nativity known, that no person ever thinks of purchasing and taking one away to a distant place, even in the country, it seldom indeed happens that they are ever bought or sold at more than 20 or 30 miles distant from the place of their birth. This sect of Daerds therefore and their children, may, I conceive, be truly called conditional servants for ever. Those of the Mavey Daerds who are attached to estates, have the same privilege as those just mentioned, except, that in case of their landlord omitting to give them their regular allowance of rice, &c. they cannot quit his lands; but on making a complaint, they can recover their right with damages. All other descriptions of Daerds are conditional servants on the male side for life, and in no case have they, so long as their master feeds and clothes them according to usage, a right to leave his service." Mr. Ravenshaw argued that, enlisting them was useless, because they were sure to desert, and that it was impolitic to permit it, for "if the recruiting of the Daerds or slaves, the property of the landlord, is allowed to be continued, it will be the cause of every possible mischief toward checking the prosperity of the country; it will afford those descriptions of people an asylum to fly to, whenever caprice or any trifling cause may tempt them to leave their master, who, as in that case they will never be able to command, to a certainty, hands to cultivate their estates, will foresee a train of new calamities coming upon them, which they were not even labouring under in the late Government, and which all the advantage they have, or can gain by the present, will not recompense. The very fabric of their agricultural system will be undermined; if which be the case, their attachment cannot longer be depended on, any more than can the troops raised by the property thus wrested from them."

The Board of Revenue submitted the subject for the consideration of Government, but it does not appear that any definitive orders were passed.

Dr. Buchanan gives a statement of the population of the Southern Division of Canara which was furnished to him by Mr. Ravenshaw, wherein the "Daerd," described as "slaves employed in cultivation," and "Mar Daerd" as "day-laborers, messengers, &c." make up the number of 52,022, stated in that gentleman's report. Dr. Buchanan observes that in the part of the country to the South of the River Chandragiri, now belonging to the District of Canara, which was formerly a part of the province of Malayala or Malabar, "in cultivation more slaves than freemen are employed". On the North side of this river begins the division of Canara called Tulava. In this division he says "the cultivation is chiefly carried on by Culialu, or hired servants; but there are also some Muladalu bought men or slaves." "A male slave, (he states,) is allowed daily $1\frac{1}{2}$ hany of rice, or three fourths of the allowance for a hired servant; a woman receives 1 hany, the man gets $1\frac{1}{2}$ rupee's worth of cloth and 2 rupees in cash; the woman is allowed only the cloth. They receive also a trifling allowance of salt and other seasonings. A small allowance is given to children and old people. When a slave wishes to marry, he receives 5 Pagodas (2 guineas) to defray the expense. The wife works with the husband's master. On the husband's death, if the wife was a slave all the children belong to her mother's master, but if she was formerly free she and all her children belong to her husband's master. A good slave sells for 10 Pagodas or about 4 guineas. If he has a wife who was formerly free, and had other children, the rate is doubled. The slave, (he says) may be hired out, and the ren-

SOUTH CANARA.
Buchanan's Journey,
vol. 3 p. 5. to 7.

p. 12.

p. 35-36.

$17\frac{1}{2}$ rupees at present
worth 35 shillings.

ter both exacts his labor and finds him in subsistence. Slaves are also mortgaged, but the mortgager is not bound to supply the place of a slave that dies ; and in case of accidents the debt becomes extinguished ; which is an excellent regulation."

He adds, that " freemen of low caste, if they are in debt or trouble, sometimes sell their sister's children, who are their heirs, but have no authority over their own children, who belong to their maternal uncles."

He further states, that the hired servant " differs little from a slave," for " although at the end of the year he may change his service if he be free from debt, yet this is seldom the case ; and when he gets deeply involved his master may sell his sister's children to discharge the amount, and his services may be transferred to any other man who chooses to take him and pay his debts to his master ;" and although his allowance is larger than that of a slave, on the other hand, the master is not obliged to provide for him in sickness or in old age.

He mentions other classes of slaves in this part of the country. " Having assembled some of the Corar or Corawar, who under their chief Habishika are said to have once been masters of Tulava, I found they are all slaves, and have lost every tradition of their former power. Their language differs considerably from that of any other in the peninsula. When their masters choose to employ them, they get one meal of victuals, and the men have daily one hany of rice, and the women $\frac{1}{2}$ of a hany. This is a very good allowance ; but when the master has no use for their labor, they must support themselves as well as they can. This they endeavour to do by making coir or rope from cocoanut husks, various kinds of baskets from rattans and climbing plants, and building mud walls." " Their mode of living" he observes, " is apparently very miserable, but in spite of it, they are a good looking people, and therefore probably are abundantly fed. If they can get them they marry several wives, the master paying the expense of the marriage feast." " When a man dies, his wives, with all their children, return to the huts of their respective mothers and brothers, and belong to their masters." " They follow all the oxen and buffaloes of the village as so much of the live stock, when these are driven in a great procession which the farmers annually celebrate."

" In the northern parts of Tulava (he says) are two castes called* " Bacadaru" and " Batadaru," both of whom are slaves ; both speak no other language than that of Carnata, and both follow exactly the same customs, but will not, in general eat or intermarry with one another. They seem to be poorer and worse looking than the Corar. The master gives annually to each slave, male or female, one piece of cloth worth a rupee, together with a knife. Each family has a house and 10 hancies sowing of rice land, or about a quarter of an acre. At marriages they get one mudy of rice, $\frac{1}{16}$ of a bushel, worth about 2 shillings, and half a pagoda or 4

* In the report of the Magistrate in 1828, the " Bukkadroo and Buttadrou" classes are mentioned particularly. It is remarked of them that " they are prohibited by their customs from carrying quadrupeds of any description, or any article having four supporters, as a burden on their heads (it being considered derogatory to the caste,) under penalty of being instantly expelled, though they may carry viler loads, such as dung, turf, &c. When necessity however obliges a person of either of these castes to break through this custom, and carry any thing having four legs, such as a cot, couch, table, chair, &c. one leg of it must be removed, to enable him to take it up on his head with impunity."

shillings in money. When their master has no occasion for their work, they get no wages, but hire themselves out as labourers in the best manner they can, not having the resource of basket making and the other little arts which the Corar practise."

"The master is bound however to prevent the aged or infirm from perishing of want. When they work for their master a man gets daily $1\frac{1}{2}$ hany of rice to carry home, with half a hany ready dressed, in all 2 hanies, or rather more than $\frac{1}{16}$ of a bushel; a woman gets $1\frac{1}{2}$ hany of rice to carry home, and $\frac{1}{2}$ hany ready dressed; and a boy gets 1 hany of rice."

In the division of north Canara, called Haiga, comprising the Talook of Onore, most of the cultivated lands, says Dr. Buchanan, are private property and the proprietors chiefly Brahmins. Most of them cultivate their lands on their own account; but perform no labor with their own hands: "most of the labor is performed by slaves. These people get daily $1\frac{1}{2}$ hany of rice; a woman receives one hany; each gets yearly $2\frac{1}{2}$ rupees worth of cloth, and they are allowed time to build a hut for themselves in the cocoanut garden. They have no other allowance, and out of this pittance must support their infants and aged people. The woman's share is nearly 15 bushels a year, with rather less than $14\frac{1}{2}$ rupees; to this if we add her allowance of clothes, she gets $16\frac{1}{2}$ rupees a year, equal to £1 16s. 8½d. The man's allowance is $22\frac{1}{2}$ bushels or $23\frac{1}{2}$ rupees, or £2 3s. 0½d.

NORTH CANARA.

Haiga.

vol. 3, p. 139.

"A male free servant, hired by the day, gets 2 hanies of rice. Both work from 7 in the morning till 5 in the evening, but at noon are allowed half an hour to eat some victuals that are dressed in the family as part of their allowance."

In the Western parts of the Talook of Soonda in Canara, above the ghauts, in which the cultivation of gardens of betel nut palm, betel-vine, pepper, &c. is the principal object of the farmer, according to Dr. Buchanan, "a few slaves are kept; but most of the labor even in the grounds of the Brahmins, is performed by the proprietors or by hired servants. The Haiga Brahmins toil on their ground at every kind of labor except holding the ploughs but they never work for hire." All the gardens, says Dr. B., belong to these Haiga Brahmins.* The hired servants "eat three times a day in their master's house, and get annually one blanket, one handkerchief, and in money 6 pagodas or $48\frac{1}{2}$ rupees or £2 8s. 4½d. Their wives are hired by the day, and get $1\frac{1}{2}$ seer of rough rice and 3 dudus of which $49\frac{1}{2}$ are equal to 1 rupee. In so poor a country, (Dr. Buchanan remarks,) these wages are very high. A male slave gets daily 2 puckah seers of rough rice, with, annually, 1 blanket, 1 handkerchief, a piece of cotton cloth, and some oil, tamarinds, and capsicum. He gets no money except at marriages; but these cost $16\frac{1}{2}$ pagodas or £6 8s. 11½d. for the woman must be purchased. She, and all her children, of course, become the property of her husband's master. The woman slave gets daily $1\frac{1}{2}$ seer of rough rice; a blanket, a piece of cloth and a jacket annually; children and old people get some ready dressed victuals at the house of the master, and are also allowed some clothing. The men work from sunrise till sun-set and at noon are allowed one

SOONDAH ABOVE THE
GHAUTS WESTERN PARTS

p. 296, vo. 3.

* The Haiga Brahmins, he remarks, seem to have changed countries with the Karnataca Brahmins of Soonda, who in Haiga are in greatest estimation, while the Brahmins of that country have all the valuable property in Soonda.

† Sic original—correctly 6 Pags=21 Rupees, the value of which at present is £2 3s.

‡ 16 Pags=56 Rupees=£5 12s, at the present exchange.

Hindu hour, or about 24 minutes for dinner. The women are allowed till about 8 in the morning to prepare the dinner which they then carry to the fields, and continue to work there with the men till sunset."

EASTERN
SOONDA,
p. 243.

In the Eastern and more open parts of Soonda, says Dr. Buchanan, "Farmers who are not Brahmins, unless their farms be large, work the whole with their own families; but rich men must hire servants or keep slaves; and to hold the plough Brahmins must always have people of the low castes. This is a kind of work that even a Haiga Brahmin will not perform."

"A man slave gets daily 2 seers of rough rice, or yearly	£.	s.	d.
about 26 bushels worth	1	2	0½
A handkerchief, a blanket, and piece of cloth worth 2 rupees . . .	0	4	0¼
A pagoda in money	0	8	0¾
Six candacas of rough rice at harvest	0	14	6

£2 8 7½

"The women get one piece of cloth annually, and a meal of ready dressed victuals on the days that they work, which may amount annually to 8s. 1d."

"Hired men get 4 seers of rough rice a day, worth less than 3 half pence."

Slavery in India, 1838,
p. 842.

From the report of Mr. Harris, the Collector of Canara in 1819, in answer to the queries of the Board of Revenue, it appears, that "Dher," (apparently the same as "Daerd" in Mr. Ravenshaw's reports) is the general term for the tribes to which the common agrestic slaves in Canara belong. According to this report, there are 12 classes of Dhers "laborers on the soil," "their number estimated at 60,000," "one half are decidedly sold, and are transferred with estates, or may be sold. The remainder are (not) actually in Slavery; they are of the same caste and sell their children, but themselves work as daily laborers on estates." "They come under the fixed term of outcasts or Pariahs." "Slavery also exists among the Mussulmans and Suders to a considerable extent," the number estimated at 20,000. "Tilling the land is the chief occupation of the 12 classes" of Dhers—also "rearing of cattle, and the lowest menial offices, in short every description of labor unconnected with the internal economy of the master's house which they could not enter."

With respect to the slaves who are liable to be sold, "the right of sale (it is said) was, and is still, the master's exclusive privilege, either with or without the land; the price varies and is settled amongst the purchasers and sellers." "The usual rates are as follows: For a strong young man from 12 to 20 rupees; ditto woman 12 to 24 rupees; a child never under 4 rupees."

"It is customary to pass a bill of sale on a bargain being made, or a mortgage bond." "The transfer by purchase or gift is attended with a short ceremony between the seller or giver, and receiver, and the slave. The slave drinks some water from his brass bason and calls out 'I am now your slave for ever.'" "The master can lend his slaves out on hire; he can sell the husband to one person and the wife to another. This is not often done, because neither of the purchasers can be

sure of keeping his purchase ; care is always taken in purchasing, not to carry the slaves to any distant estate, their attachment to the soil on which they were born being well known. The master can sell the children ; but this is seldom done from the foregoing cause, the fear of desertion."

The master " feeds and clothes his slaves. He never pays them wages in money but presents them on their marriage, or particular ceremonies, with a small sum." " The quantity of food and clothing to a slave varies in every talook : it does not seem to be regulated by any rule, although it would appear that some original quantum obtained. The average may be thus estimated.

Food.—A man $1\frac{1}{2}$ Canara seer coarse rice, 2 rupees weight salt, a little beetle-nut and leaf ; a woman 1 seer ; a child $\frac{3}{4}$ ditto. Clothing.—A man 2 pieces of cauthy, 6 cubits, in some Talooks a kumblee and roomal given. Woman, 1 ditto, 7 cubits. Child, 1 ditto, 4 cubits.

The salt, beetle, &c. is optional, it is also customary to give them conjee (the water in which rice has been boiled) from the master's house."

" From every enquiry (said the Collector,) I cannot learn that any wanton cruelty is experienced by the slaves, the master being well aware that on any ill-treatment they will desert him, and the trouble and expense of recovering them would, perhaps amount to the value of the deserters.

" They have no day which they can call their own. It often happens, however, that a kind master, on any of his great ceremonies, grants to his slaves that day to themselves free from all labor." " If a Dher accumulates a little real or personal property, he retains it independent of his master." " The master of a deserving slave sometimes gives him a slip of ground which he may cultivate for his own use. He also enjoys the produce of such trees, roots, and vines, as he is permitted to plant ; but the right in the soil, or tree, is in the master."

Slaves, it is stated, are prohibited borrowing money from any but their master, who supplies them with what they require for their sacrifices and marriages. " There does not exist any interference on the part of the master in the ceremonies (of marriage) ; but if the slave of one man marries the female slave of another, the child born of that marriage, if a male, goes to the owner of the male, and vice versa." The 12 classes, however, it is stated, have different customs with respect to marriage and religious ceremonies.

The number of slaves of all descriptions in Canara has never been correctly ascertained, but the collector estimated it at 82,000.

In the report of the Judge on Circuit in the Western Division, on the first sessions of 1825, he brought to notice two cases tried in Canara, wherein the accused were charged with causing the death of their slaves by severe chastisement. " The frequent absence from his master's work which occasioned the deceased's chastisement, in one of these cases, was owing to visits to his wife, who resided at a distance on her master's estate, who would not allow her to live with her husband." This induced the Judge " to make enquiry at Mangalore regarding the prevailing custom in instances where the slave of one master marries the slave of another, and particularly whether their respective owners can prevent their living together ;" and he

was informed, that "it is usual for the female slave to reside with her husband, and if his residence be at such a distance as to prevent her from coming to work daily at her masters' house, the master of the husband must indemnify the owner by the payment annually of half a morah of Rice; but if her master should employ the female at his own house, he must employ, also her husband, whose owner he must indemnify by the payment annually of one morah of Rice."

Appendix IX.

In consequence of this report, a more particular investigation was ordered to be made as to the obligation of the masters of slaves to allow the married to live together; upon which the Acting Criminal Judge of Canara, Mr. John Vaughan, reported that "the male and female married slaves are always allowed to live together." "The custom of the females living at the houses of their respective husbands is general, that of the males living at the houses of their wives is not so frequent." "The females living at the houses of their husbands are employed to work by the masters of the latter, and the usual allowance on that account is paid by them to the masters of the female slaves, and vice versa where the male slaves are employed by the masters of the female slaves." "In some parts where the houses of the husband and wife happen to be in the same village, the wife and husband work at the houses of their respective masters, and after their work is over, the female goes to the house of her husband, or the husband to her house. The masters of the female or male slave cannot object to their living together, and the master of the female has no reason to do so, since the children which she produces are the property of her master." The above, the Judge remarked, was stated by the persons questioned by him, not as "known right but as the prevailing custom."

Appendix IX.

The Magistrate of Canara, Mr. J. Babington, on this occasion, made a very full report of the state of the slaves of all descriptions in that district, agreeing generally with that made by the Collector in 1819, but more complete and distinct, and where it differs probably more correct.

In this report, the Dhers or "slaves by birth and caste," "laborers on the soil," are estimated at 60,000,* and are said to be divided into 12 classes, under the same denominations as in the report of Mr. Harris, and it is stated, that "about one half are the property of individuals and can be sold, with or without the estate on which they are living. The remainder are not in actual bondage, they work as day laborers on estates, and are at liberty to take service where they please. They are however in the habit of selling their children as slaves, and the latter become the absolute property of the purchaser from the day of sale."

The following, it is stated, are the rates at which slaves are sold in Canara, viz.

A strong young man,	Rupees 12
A strong young woman,	" 16
A boy or girl,	" 4

"When a Dher is sold or mortgaged to another, a bill of sale or mortgage bond is passed by his original master to the purchaser or mortgagee, and a short ceremony takes place, at which the slave acknowledges his new master by exclaiming aloud, "I am your slave for ever."

* The present population of Canara is understood to be near 8,00,000.

"By the custom of the country, the master builds his slaves a hut and supplies all their wants : he is not however liable for debts contracted by the slave without his knowledge."

"The daily subsistence and annual clothing of the slaves vary in some Talooks," but the averages are stated as follows ; "To a man $1\frac{1}{2}$ seer of coarse rice per day, and a piece of cloth or cumblee per annum, not exceeding the value of $\frac{2}{4}$ rupee. To a woman $1\frac{1}{4}$ seer of rice, one cloth per annum of the same value. To a boy or girl of an age to rear cattle (generally above 8 years, none being granted to those under this age) $\frac{3}{4}$ seer of rice, and one cloth of 4 cubits, worth about $\frac{1}{4}$ rupee."

"Besides the above subsistence, and clothing, the mastersometimes gives to his slave on reaping the crops, the produce of a Bett land yielding from 1 to $\frac{1}{4}$ morah of paddy, and sometimes allows him at the same season to take home as much paddy as he can carry to his house at one time," with some other indulgences occasionally.

"When a master does not give his slave the regulated daily subsistence, it is usual for the latter to remonstrate with him ; where this is not attended to, he gets the friends of his master or his fellow Bondsmen to intercede for him ; and where this proves ineffectual, he generally applies to the Sircar servants, who in such a case send for the master, remonstrate with him, and get him to satisfy the slave ; others desert their master's service and remain absent until their master consents to their reasonable demands."

"The slave never had any land that he could call his own ;* latterly some have rented lands from individuals : but no Wurgst appear in their names in the Sircar accounts. Where the slave has planted any cocoanut, sooparee or other trees of his own in the master's compound, the master and slave possess equal right to their produce ; in some cases where the slave wishes to have the whole, the master's share in the trees is rented to him. The slave cannot either mortgage or sell these trees to others, and when he dies his heirs enjoy this right in the same way ; where there are no heirs, the right of inheritance of the trees goes to the master."

* Estates, or independent holdings.

For petty offences and trespasses, "by the existing custom of the country, the slave is liable to be punished by his master, by threatening and abusing, tying his hands behind him, flogging him with switches of trees," and in other ways not more severe. "Formerly masters treated their slaves as they thought proper, and punished them frequently with great cruelty," but their power has been restricted by the order declaring them "liable to be called to account for any barbarous treatment of their slaves, and punished as if they had committed these acts of violence on a free man." "Now when masters inflict cruel punishment on their slaves they apply for redress to the sircar."

"The master finds it for his own advantage to treat his slave well, since he has discovered that the latter will not be forced back into his service, when he only leaves it on account of maltreatment." Mr. Babington, as Magistrate, had al-

* In Mr. Grimes report on Malabar, it is observed that in Canara it is not uncommon for slaves to have small pieces of land given to them by their masters for raising vegetable productions, and they sometimes have parts of rice fields, and a few cocoanut trees particularly assigned to their use. Lands are also leased out to them.

ways "refused interference after ascertaining the fact of oppression or ill usage by the master, and the latter had been forced in consequence by conciliation to induce his slave to return, the loss of his services in the meantime acting as a wholesome lesson to teach him the policy of kindness to his bondman." "On the other hand when a slave had quitted his master's service from any other motive than to escape violence and oppression, he had, as Magistrate, directed, that he should be restored to his owner." He did not find this course of proceeding prescribed by any Regulation, but considered it consistent with the orders above referred to, and not in opposition to any orders.

"When two Diers belonging to different masters agree to marry, they carry offerings to their respective owners." "When the marriage takes place the owner of the male gives him two rupees and one moorah of rice, and the owner of the female slave gives her one rupee and one moorah of rice, and sometimes more; but no kind of grant whatever is made by the owners to each other." "The wife lives in her husband's house in whose owner's temporary service she is now considered to be, and is supported by him, but he has no right either to sell her, mortgage, or lend her out to others." "She still belongs to her former master, and is obliged to attend at his house twice in the year, at the time of transplantations, and reaping the crops, for which however she is paid the usual daily allowance," "and in the event of non-attendance, she must indemnify him in the payment of from half to one rupee, or from a quarter to one moorah of rice," "or it is given by the owner of her husband." "In case of child-birth or sickness, her former master generally defrays the expense attending it; when he cannot afford it, it is done by her new master."

"The children born of this marriage go to the proprietor of the woman, who can sell, mortgage, or otherwise dispose of them. The female slave continues to live at the house of her husband till she becomes old, or till his death, when she returns to spend the remainder of her life in her former owner's bondage. When one of the parties is bought on the occasion of marriage, the rights of the respective owners in the parties themselves, and in the children, are determined by specific conditions made at the time of purchase. The master is at liberty to sell the husband to another person, and the wife to another, but in most cases they are not thereby considered to be separated, because the masters to whom they are sold generally allow their living together, especially the owner of the female who permits it more readily because he has a right to the children she produces. The objection, when any is made, is on the part of the owner of the husband, because he is deprived of his services without any commensurate advantage." "There is no positive obligation upon the owners of married slaves to allow them to live together when the male and female belong to different masters—it is very generally done, and the master who keeps them from either living together, or visiting each other at reasonable times, is considered to act harshly, but not illegally or unjustly, as he is admitted to have a right to make the most of his slave's time."

"Few instances occur of the families of slaves being separated by a sale, and in these few, the new masters almost always live near, and the slaves can visit each other at leisure hours. The impolicy of separating them to a great distance had evinced itself in the very few cases in which it had taken place by the slaves ab-

scending from their masters repeatedly, and depriving them of their services for a time at least."

"The master can lend out his slaves and their children on hire (called Hall Mundy Hunna) which he receives, but the daily allowance of $1\frac{1}{2}$ seer of rice per man, and $1\frac{1}{2}$ seer per woman and $\frac{3}{4}$ for each boy or girl, which is also given by the person hiring them, is taken by the slaves themselves."

The other slaves in Canara, besides the Dhers, Mr. Babington estimated at only 4,500 instead of 20,000 as computed by the Collector in 1819. According to Mr. Babington, the following are some of the causes to which this slavery is owing, viz: "Being sold as slaves by, the former Government, the Gooroos (high priests), or parents; being born of slaves so sold; captives taken in war; persons selling themselves in payment of debts, or disposing of themselves to others as a stake at play; or for food to support life in a time of scarcity; for love for the female slave of another; and for various other reasons, being sold or selling themselves, as slaves, either permanently or for a stipulated time." We find it stated by Mr. Harris in 1819, that "Suders, or Brahmin women, who had lost caste by having connection with a man of inferior caste," were made slaves by being sold under the Mahomedan Government, "and their descendants continue slaves." When Mr. Barber was Magistrate in Canara, he said, "some stop was put to this, but there is no doubt it continues in an underhand manner to this day."

These slaves, it is stated by Mr. Babington, "seldom ever marry according to the strict meaning of the term. No ceremony takes place either religious or civil—they live in a state of concubinage, and are generally faithful to each other." "When a male and female agree to live together they inform their masters and solicit their sanction." "The owner of the man agrees in some cases with the master of the woman for her purchase, or vice versa." "Sometimes they are allowed to live together without a change of property in either." In the latter case, "the children universally go to the owner of the woman." When the man lives at the house of the woman's master, it is usual for him to make some compensation* to his master for the loss of his services, and when the woman lives at the house of the man's owner, she makes a similar compensation as a token of subjection to her master." "But this arrangement is not of frequent occurrence, and only takes place when the masters live at a distance from each other. When this is not the case they visit each other at their leisure hours; and are ready at their respective masters' houses at the usual time, to begin their daily labor."

Mr. Babington in conclusion, expressed his opinion, "that the present condition of the slaves in Canara is better than in any part of the world where slavery is tolerated," "as good, if not better than that of many of the free laborers, for sick or well, the slave is supported by his master, and has always a hut to cover his head in the inclement season; his food also is wholesome, and generally sufficiently abundant, the punishment to which he is liable is not severe, or according to his ideas, disgraceful, and his work is not oppressive or beyond his strength. Instances of

* The extent of this compensation is not defined by custom. It is considered a voluntary offering, and consists of money, fruit or vegetables, according to the ability or inclination of the donor.

cruelty do occur, but they are only sufficiently numerous to form an exception to the general practice ; and as they are now punishable by the Police, they are likely to be of more rare occurrence.”*

Mr. Babington saw no objections to its being made a compulsory rule, that married slaves should be allowed to live together, it being provided, that the owner of the slave removed thereby from his service should receive the usual indemnification. It would not, he observed, be a greater infringement of the master's right than the order above referred to, which deprived him of the power of severe punishment, “ and would neither be more opposed nor considered more oppressive” than the latter, which had been silently acquiesced in by the whole of Canara, and it would be a considerable step towards the improvement of the condition of slaves. But he thought the rule ought to be passed in the same way as the last one, by an order, and not by a regulation, as a legislative enactment on the subject of slavery would give such a sanction to it, as would tend to resuscitate and perpetuate the system, which appeared to him to be dying a natural death.

Differences in the accounts of Slavery in Canara.

On comparing the accounts, the substance of which is given above, it will be observed, that the custom of the father having no power over his own children, while those of his sister are subject to him, which Mr. Ravenshaw and Dr. Buchanan notice, as prevailing in some of the tribes of Dher, is not mentioned by Mr. Harris and Mr. Babington. This is probably owing to their having had generally in view in their remarks, those who are commonly bought and sold, and whose servile condition is hereditary, among whom it appears from Mr. Ravenshaw, the ordinary custom in respect to the paternal relation and authority obtains, the children being subject to their own father, and the sons following his condition.

Mr. Harris and Mr. Babington say, that the laborers of the Dher tribes who are not actually in bondage themselves, yet are accustomed to sell their children ; while Dr. Buchanan states, that it is their sisters' children whom they sell, or who are sold on their account. We presume, that this depends upon the caste to which they belong, that they sell the children over whom they have parental authority, their own or their sisters children, as the case may be, according to the custom of the caste.

Mr. Harris and Mr. Babington say generally, that the slaves who are saleable may be transferred indifferently with or without the land they have been used to till ; while Mr. Ravenshaw on the other hand states particularly, that there are some who are considered as appurtenants to estates. It is likely that this usage in favor of the slave as we esteem it, and which we are inclined to think was originally the more general, has been gradually falling into desuetude from the want of power on the part of the slaves to maintain it against their masters, whose interest it is obviously to abolish it, as limiting their proprietary right.

In Mr. Babington's report it is stated that “ the Civil Courts every day decree slaves to a suitor like cattle, grain, or any other kind of property, and we see that in a report of Mr. Newnham, 1st Judge of the Court of Circuit for this Division, dated

Slavery in India 1838. p. 405.

* Mr. Grame observes, that the Canara slaves are not held in the same disrepute with regard to caste as in Malabar ; their approach, short of actual contact, is suffered without contempt by their Soodra proprietors, and they seem in this respect to have the same privilege as a man of the Tean caste in Malabar has relatively to a Nair.

in August 1829, he said he had been informed that the Courts in Canara daily put up slaves for sale as they would any other moveable property, and noticed particularly a civil suit wherein a demand was made " of 20 Moolumunishers (slaves) value 50 Pagodas, without individual specification, immediately followed by a like summary demand for brute animals." Mr. Newnham objected " to the practice of thus suing without name or individual description for so many sentient creatures of God ;" and the Court of Sudder and Fouzdarree Adawlut upon his representation ordered that in suits for slaves " each should be distinguished by his particular name, and the specific sum at which the owner values him, under penalty of nonsuit."

When a married couple of slaves belong to different masters, the children, according to Dr. Buchanan, Mr. Babington, and Mr. Vaughan, belong to the owner of the mother; but Mr. Harris says, the child, if a male, goes to the owner of the male, and vice versâ. Mr. Ravenshaw states, that even when they both belong to one master, only the male children become his property; and the female children when they are married become the property of their husband's master. But he speaks of females being purchased for the purpose of being married to male slaves, and when these are the daughters of slaves, it may be presumed, that they are sold by the owners of their parents who thus transfer their property in them to the owners of the intended husbands.

It is stated by all, that it is not the practice to sell slaves so as to cause their removal to a distance from their homes to which they are said to be greatly attached. Mr. Harris and Mr. Babington however say only that it is found impolitic to do so, as the slaves so removed are discontented and apt to abscond; whereas Mr. Ravenshaw asserts not only that some are appurtenants to estates, and therefore not liable to be removed from them, but that the rest generally are privileged to refuse to be sold out of the Mogany* in which they are born and bred.

It is remarkable that Mr. Harris and Mr. Babington do not notice the peculiar kind of life servitude particularly described by Mr. Ravenshaw as prevailing among the Moondaul Dacreds or Dhers, arising from a voluntary contract, by which a man having obtained from a landlord the means of defraying the expense of his marriage, in consideration thereof, engages his own services and those of his wife, to him, for the term of his own life, but does not bind his offspring, nor his wife after his death; a kind of bond servitude, which, from Mr. Ravenshaw's account, appears to be commonly renewed on the male side in the same way, and for the same consideration, from generation to generation.

Neither do they notice the way in which, according to Dr. Buchanan, the laborers of some of the Dher tribes, originally free to choose their service, occasionally lose this right by becoming indebted to their masters, whereby they are placed at his disposal, and may be transferred by him to the service of any one who will pay the debt, while their sister's children may be sold by him for its redemption.

It is to be supposed, that they did not consider the persons in either of these conditions as in a state of slavery; but, as affecting themselves, their state would

* A Subdivision of a Talook.

appear to have little advantage over that of slaves in the more strict sense of the term.

With respect to the allowances to slaves both of food and clothing, the accounts agree pretty nearly; and it seems that when their dues are not rendered, they find means of working upon their masters to do them right, which are generally effectual. The fear of driving them to desert, it is stated, operates to prevent their masters from stinting them of their proper allowances. These allowances are less than those of free laborers, but it is to be considered, as Dr. Buchanan observes, that the master of the free labourer is not obliged to provide for him in sickness or in old age. That this obligation rests upon the masters of slaves is asserted by both Dr. Buchanan, and Mr. Babington.

The same fear of the desertion of the slaves, it appears, has a salutary effect in checking the masters in punishing them for misconduct, since the Magistrate will not interfere to oblige them to return when they have fled in consequence of ill usage. The slaves are deemed to be liable to punishment by their masters by the custom of the country; but the masters, it is said by Mr. Babington, are restrained from carrying it beyond the limits of moderate correction, partly by that fear, and partly by the apprehension of being called to account before the criminal tribunals for any act amounting to cruelty, under the circular order issued by the Fouzdarree Adawlut in 1820. Mr. Babington states, that there has been a decided improvement in the treatment of slaves in this respect; but it must be observed, that a late Magistrate, Mr. Cotton, while he assents to Mr. Babington's account of the state of the slaves in Canara generally, at the same time remarks, that it appears to be very much the same now, as it was under the Hindu and Mahomedan Governments.

It was stated by the Judges of the Provincial Court of the Western Division in 1836, that "they were not aware that the Civil Courts had ever recognized in the masters of slaves any legal right with regard to their (the slaves) property; though as respects their persons, the competency of the master to transfer the slave by sale, mortgage, or lease, according to the ancient laws and customs of the country, had never, been disputed or doubted," in this province, or in Malabar; but that it did not appear that in the Provincial Court any final decree had ever been passed, whereby property exclusively in slaves (that is, without reference to the land to which they belong) had ever been recognized or rejected."

In the following year some discussion took place upon this subject between the Zillah Judge of Canara, the Provincial Court, and the Sudder Adawlut, with reference to a Special Appeal before the Zillah Judge. The reports of the Zillah Judge and the Provincial Court, and the proceedings of the Sudder Adawlut, will be found in the Appendix.

Enclosures in letter
from Register, Sudder
Adawlut, dated 28th
Aug., 1839.
Appendix. 1X.

In the case in question certain slaves were attached at the instance of a party who had obtained a decree against their owner; whereupon, another party, who alleged that he had received them in mortgage from the owner, instituted a suit to obtain their release from attachment. The District Moonsiff, before whom this suit was brought, decreed that they should be released, as required by the plaintiff. The party who attached them, who was third defendant in the suit before the District Moonsiff, appealed, and the case was further tried by the Sudder Ameen; who ad-

judged, that the slaves should be sold for the satisfaction of the decree on account of which they had been attached, after paying the sum for which it was admitted, they had been mortgaged to the plaintiff in the suit before the District Moonsiff.

The case having been brought by special appeal before the Zillah Judge, he reported it to the Provincial Court, and requested instructions on these points viz. "Whether an award of slaves is authorized by a British Court of Judicature, and whether, as in the case in question, they could be legally ordered by him, as a subject of Her Majesty's Government, to be brought to the bazar and sold."

He said, he had "examined several decrees amongst the records of the Court, to see if an award similar to the one under discussion could be found, but had observed in most claims for slaves there was a claim for land, and that slaves apparently went with the land, but had never been ordered to be sold in the way specified in the Decree." In laying the case before the Sudder Adawlut at the Presidency, the Judges of the Provincial Court said they felt some difficulty in submitting their opinion upon the points referred by the Zillah Judge: they "believed they were warranted in asserting that, in the provinces of Malabar and Canara, the sale of slaves, except with the land or estate to which they may belong, has never been authorized by the Courts": but, they added, "there is no doubt that the custom is common in both districts, of transferring slaves by mortgage or sale, independently of the land, by private contract; though it is understood that such transactions are generally between neighbouring landholders, and that the slaves are seldom removed to a greater distance than a day's journey, and then only with their own consent."

With respect to the particular case referred, the Judges observed that the decree of the Sudder Ameen, from which a Special Appeal had been admitted, might be set aside on the ground of irregularity, without passing a decision upon the questions raised by the Zillah Judge.

The Court of Sudder Adawlut expressed their opinion that the course suggested by the Provincial Court should be followed. They added that "the Zillah Judge might properly refuse to do more than had been already done by the Courts" as stated by the Provincial Court, "namely authorize a sale of slaves with the estate or land to which they belong" and they advised generally that he should "confine his sanction to such orders as he finds to have been passed on former occasions by the Zillah Court, and refuse compliance with any novel application on the subject."

While we note the assertion of the Provincial Court that in these two provinces the sale of slaves except with the land or estate to which they belong has never been authorized by the Courts, we must observe that we find among the decisions of Courts in Malabar and Canara, transmitted through the Provincial Court, in 1836, many by which transfers of slaves, without land, by sale or otherwise, are distinctly ^{Slavery in India, 1839, p. 405.} recognized, and adjudged to be valid—and we must refer to the report of Mr. Newnham, 1st Judge of the same Provincial Court, quoted above, in which he stated that the Courts in Canara daily put up slaves for sale as they would any other moveable property.

It does not appear that slaves have been sold in this province for the recovery of arrears of revenue.

We do not find any particular account of domestic slavery in Canara. Probably the number of domestic slaves is very small. It does not appear that children are sold into slavery in Canara as a means of providing for their subsistence.

We have not seen any notice of the enfranchisement of slaves by their masters in Canara, either gratuitously, or in consideration of a price paid.

COORG.

Appendix XIII.

An interesting correspondence on the subject of the prædial slavery prevailing in the territory of Coorg will be found in the appendix.

This Territory which was brought under the British dominion in 1834, is situated on the summit of the Western Ghauts, bounded on the north by Canara and Mysore, on the east by Mysore, on the west by Canara and Malabar, and on the south by Wynaad a Talook of Malabar above the ghauts.

It appears that slavery has existed in this country from time immemorial. At present it is supposed that half of the agricultural laborers are in that condition. There are two descriptions of slaves vizt. 1st, those attached to the soil, transferable from one proprietor to another, but not removable from the land to which they belong. 2d, those who are the personal slaves of the cultivators, and who may be either sold or mortgaged by them, but not to a person who will carry them out of the country unless with their own consent; they always remain attached to their actual masters, and move with them. Their number is estimated at nearly 7000. They are of 16 tribes, which are classed under three general denominations, viz. Holeyaroo, Yewaroo, and Paleroo. In one tribe called Marc Holeyaroo the inheritance goes to the sister's son. In the others it follows the common custom. The females of the Paleroo caste do not remain in slavery after the death of their husband. The female children of slaves of this caste, it is said, are not the property of their masters unless by purchase, they are sent to their maternal grand-mothers to be brought up.

Marriage contracts among the Coorg slaves are sometimes made by the parents of the parties with, and at other times without, the interference of their masters. The marriage tie is dissolved by the parties at their pleasure, each being at liberty to form a new connection. The children commonly remain attached to their fathers. The existing slaves have been slaves from their birth, and are the descendants of slaves, who are supposed originally either to have submitted voluntarily to the condition in order to obtain a livelihood, or to have sold themselves for a price. Some of the tribes are supposed to be indigenous; some to have come from Canara; and some from Mysore.

The Rajahs of Coorg had always a considerable number of slaves belonging to them who were employed in cultivating the Punniums or Royal farms. When land was given to a Ryot for the purpose of cultivation one or two slaves were originally made over to him from those belonging to the Rajah. The Ex-Rajah had about 1757 slaves; but many of them made their escape in the war.

When the country came under the British Dominion the lands which had belonged to the Rajah became the property of the state, and the question immediately arose what was to be done with the slaves upon them. The Commissioner in re-

porting upon the subject observed, that these slaves might have been emancipated had there been no others in the country, but finding that slavery prevailed generally, and that there were several thousands more, he deemed it inexpedient to attempt any immediate change in the existing system. The Governor General in Council was inclined to effect a general emancipation by means of a pecuniary payment to the owners of slaves, if it could be done without risking any serious disaffection to our rule in consequence, and directed enquiries to be made cautiously to ascertain the state of feeling on the subject. The Commissioner and the local Superintendent agreed in opinion that it was inexpedient to emancipate the slaves generally. "I think" said the Commissioner "that the emancipation of slaves ought not to be contemplated in the present condition of Coorg under any circumstances, even of proposed pecuniary compensation to the owners; and that such a measure if practicable at all would be fraught with much evil to the slaves themselves, as well as prove a source of great inconvenience and deep discontent to their proprietors." The Commissioner and Superintendent did not think it advisable even to proceed at once to emancipate the Slaves on the Government lands, but proposed a modified plan by which they were to be assigned to respectable ryots "who should be required to maintain them on the same terms as ordinary labourers, paying them the same rate of hire, demanding their attendance only during working hours, and, especially, allowing them the entire management and control of their family affairs and the settlement of their children's marriages." "The rising generation to be considered the property of Government, but to be in reality perfectly free, except in being placed under the Surveillance of the Potails of their villages," and "in being obliged to apply for the permission of the Circar when desirous of removing from one part of the country to another." The Governor General in Council however "determined to emancipate those slaves whose persons, as belonging to the state, Government had the undoubted right to set at liberty."

The plan proposed by the Superintendent for carrying this measure into effect and providing for the employment and livelihood of the liberated slaves was, to settle as independent ryots on the Government lands, all who were desirous to undertake cultivation on their own account, giving them advances (as usually allowed to the lower class of ryots) to purchase cattle, implements of husbandry, and the means of subsistence, until the produce of their farms should enable them to depend entirely on their own resources, and exempting them from the whole of the land rent for the first year, and half of it for the two following; and to give to those wishing to establish themselves as free laborers, a donation of 3 rupees to each man, 2 rupees to each woman, and 1 rupee to boys and girls under 12 years of age, to enable them to procure clothing and other necessaries.

For such as should be unable from age or infirmity to gain a livelihood for themselves a small allowance was recommended, sufficient to purchase food and obtain accommodation in their villages. These recommendations were approved and adopted by Government; but a further recommendation of the Superintendent, that the emancipated slaves should be placed under surveillance generally, was disapproved, he was however authorized to impose a certain restraint upon such of them as should evince a determined disposition to idleness and mischief.

The number of slaves emancipated under these orders was 1115, and the amount of donations paid to them was Rupees 2238. Each individual was furnished with a certificate of freedom. About 50 families were settled as cultivators on Government lands. Some continued to work on the estates to which they were formerly attached. A number refused to work and wandered about the country without employment, but committed no excesses, and did not show any disposition to mischief as had been apprehended. No discontent was excited among the remainder of the slave population, excepting a few individuals, who were instigated to express dissatisfaction by Camp followers and others with whom they associated, and the Coorgs in general appeared to view the proceeding with indifference. This is the substance of the first report made by the Superintendent in April 1836, soon after the emancipation of the Government slaves was carried into effect. Again in August 1837 the Superintendent reported, that he had not heard a single instance of any of the individuals who had been emancipated having misconducted themselves, as it was at first apprehended they would do. A number, he said, had continued in the service of the ryots to whom they were formerly attached; 383 families had during the past season established themselves as independent labourers, and between 50 and 60 families cultivated on their own account small patches of land. On the whole he had reason to believe that they were a remarkably quiet, well behaved, industrious people.

Dated 6th June, 1840.

A further report has been recently received in which the Superintendent states, that still no instance of misconduct on the part of any of the emancipated slaves has come to his knowledge, but on the contrary, all accounts he has received of their pursuits and habits confirm the favorable opinion he before expressed of them. A few of those who had undertaken the cultivation of lands on their own account, he says, have thrown them up, but there are still between 30 and 40 families so engaged. About $\frac{1}{3}$ of the whole have established themselves as independent laborers, or have attached themselves to the ryots as domestic servants. It is supposed that some few of the Yerrawaroo tribe who came from Wynaad have entered the service of ryots to whom their relatives are attached.

Such of the emancipated slaves as have taken land for cultivation have congregated in small villages in the neighbourhood of the farms to which they formerly belonged. They occupy farms varying in size, and bearing an assessment ranging in amount from 5 to 20 rupees. The Superintendent states that "they are better clothed than they were; their dwellings are for the most part substantially built; and their condition appears on the whole decidedly improved. "Those who have re-entered the service of their former masters, or who have attached themselves to Ryots as domestic servants, are maintained very nearly, if not precisely, on the same footing as they formerly were. They live with the slaves of the establishments to which they belong, are allowed the same rations, and are required to work the same number of hours." Some have stipulated for a payment in money from 2 to 4 Rs. a year instead of clothing, but the greater number receive the same allowances, and are otherwise treated exactly as if they continued slaves. Indeed, it is said that many have destroyed their certificates of freedom, and "have bound themselves to continue for life in the service of their masters on condition of being maintained, as slaves are in their old age, or when unable to work from illness; and that others have done the same in order to procure the means of getting mar-

ried, or to obtain the consent of masters to their marrying female slaves of their establishments." "The condition of this class cannot, therefore, (the Superintendent remarks) be regarded as being in any way improved." He adds, that he "cannot perceive any difference in the circumstances of those who have established themselves as independent labourers, the rates of hire differing little from what they formerly received."

The result of this interesting experiment has justified the expectation of Government founded upon "the experience of other countries and other times," "that the emancipated slaves of Coorg would willingly work to obtain their livelihood, and that those for whose benefit they had hitherto been tasked would willingly employ them as hired labourers." It has also proved the groundlessness of the principal objection raised against the measure that it would occasion a general feeling of discontent among the remaining slave population. The Superintendent states that the liberation of the Punniah slaves has been regarded by the rest with perfect indifference and has not produced the slightest alteration in the conduct of any. This indifference however, it is proper to remark, is attributed to there being no obvious improvement in the condition of the great majority of the liberated slaves to provoke the jealousy of their fellows, who remain in bondage.

Mr. Secy. MacNaghten's letter to Col. Fraser, dated, 12th October, 1835.

From this example it appears that the mass of slaves do not care for freedom by itself, and rather prefer slavery with its evils for the sake of the important advantage of a sure provision against want, and that the *freedman* is by no means considered an object of envy. We imagine that the emancipation of slaves would not be felt as a boon by the general body, though there would probably be a few every where who having a capacity to improve their condition would be benefited by the removal of the shackles which now prevent them from rising from their low estate. We do not think the result of this experiment is to be regarded as discouraging; it was as much as could be reasonably expected that a few out of the mass would be benefited immediately, and a few *have* been benefited. It is perhaps more than was to be expected that none should be worse off than before; but as things have turned out, it would seem that all who have not benefited are at least as well off as before.

It is stated, that the wealth of a cultivator in Coorg is estimated by the number of his slaves, as in proportion to their number is the extent of the lands he has under cultivation. They are said to be well treated by their masters "who actuated by self-interest if not a better motive, pay much attention to their comfort," "and protect and treat them with kindness as forming a part of their family." They appear to be well provided for in general. "Three seers of rice for a male slave, two seers for a female, and one and a half to a boy or girl are given by their masters independently of salt and curry stuff, which are supplied sometimes monthly, at other times daily." They are entitled also to a load of grain once a year at harvest. "They reside in houses provided for them by their masters in the small villages, and a piece of ground is appropriated to their use, in which they usually grow vegetables or tobacco." They are supplied with clothing twice a year. The above rations however are not given universally throughout the year. "Some ryots in Coorg provide their slaves with subsistence at those times only that they

work for them ; at other times they are obliged to seek a livelihood elsewhere, but are bound to return to their master at the season of cultivation." The masters have authority to chastise their slaves moderately for faults, but not to inflict severe punishment upon them. Instances of ill usage, the Superintendent believes, are very rare. He observes, that the slaves have at all times the means of escaping from ill treatment, and that they are in the habit of absconding on receiving the slightest cause of annoyance. Considering this, he thinks, that the conduct of the master towards his slave cannot differ much from what it would be were the latter a free domestic servant.

From the accounts above cited of the allowances made to the slaves in Coorg, we apprehend, that they are better off than those of Malabar and Canara ; and it would appear, that they are better treated generally. Yet it is stated by the Superintendent that a considerable number, about 500, have this year migrated to Wynaad a talook of Malabar which adjoins Coorg on the South. It is alleged that this is owing to the Wynaad proprietors having increased the allowance to their slaves, and put them in respect to food and clothing on equality with the slaves of Coorg, while the labour in Wynaad is lighter.* It is stated by the Superintendent, that there is an old understanding between the Coorgs and the ryots of Wynaad according to which slaves absconding from either district are not claimable by the master whom they have left, after having crossed the frontier. For some years past, he says this custom has operated much to the advantage of the Coorgs, the immigrations from Wynaad having much exceeded the emigrations thither. But this year several who came from Wynaad have returned, and have induced a number of the slaves of Coorg with whom they were associated to accompany them. Desertions in this manner from the one district to the other, he states, appear to have been of constant occurrence. Many of the slaves on crossing into Coorg are claimed by ryots to whom they were formerly attached, and the same is the case in regard to those absconding from Coorg to Wynaad : so that many of the slaves on either side of the frontier are considered as having masters in both districts, and they have changed so often from one to the other that it would be almost impossible now to say to which they properly belong. Thus when slaves desert to Wynaad it is not to be concluded that they do so in consequence of ill treatment ; but the Superintendent thinks that this conclusion is to be drawn when slaves, not belonging to families which came originally from Mysore, and have still connections there, desert thither, for the aversion of the Coorgs to the open country is said to be so great that nothing but ill treatment could drive them to settle there, and the same he adds may be inferred in the case of such as desert from Malabar or Canara, as the slaves (as well as all other inhabitants of the coast) entertain the greatest dread of the climate above the Ghauts, and are very unlikely to select Coorg as a place of abode, unless it be to escape from the tyranny of a master.

It appears that "partial assistance has occasionally been accorded to inhabitants of Canara in recovering slaves who have taken refuge in Coorg, and the like assistance has on one or two occasion been received by Coorgs who have proceeded in pursuit of their slaves to Canara." But a late application from the Magistrate

* We have quoted in another place a remark of Mr. Orme, that the slaves of Wynaad are held in higher estimation than those of the lower district.

of Canara for the restoration of fugitive slaves belonging to a person in that District, led to a reference to the Commissioner on the subject, and he has laid the matter before Government. The Superintendent states that he "does not believe that any serious inconvenience would result from the officers of Government affording no assistance to the owners in recovering such slaves as may fly from Coorg into Mysore," and is "not aware of any that is likely to arise from the same course being pursued in regard to such as may fly from Malabar or Canara into Coorg." He does not think it expedient, at present, to prohibit the District authorities from taking any active part in restoring runaway slaves who may remain in Coorg, though he does not believe that any serious inconvenience would result to the owners from such a prohibition. He says that applications for assistance of this nature are extremely rare; but "any change in what has hitherto been customary in this respect, would no doubt be regarded by many of the most respectable inhabitants as an encouragement to insubordination amongst their slaves, and as leading to innovations, which, in their opinion, could not fail in the end to cause the utter ruin of their families." He adds that he "knows of no change which would be likely to give rise to so much alarm and bad feeling, as the adoption of any measure likely to weaken the right which masters now possess to the services of their slaves."

DOMESTIC SLAVERY.

From the details given above it will be seen that domestic slavery is found, more or less, all over the Madras Territory, but, generally speaking it is rare among Hindoos, and not common even among Mussulmans. We quote the following further remarks on the subject, from the Board of Revenue, and Mr. A. D. Campbell. "The slaves in this part of India (say the Board of Revenue) may be divided into two very distinct classes; the one consisting of the slaves of Mussulmans, the other of the slaves of Hindoos. The former are exclusively *domestic* slaves employed in the house, and are commonly purchased whilst infants, and brought up in the Mussulman faith by their masters; many of them are females, employed in the seraglio or haram of the richer Mussulmans, to attend on their ladies; and once there enclosed, they are seldom allowed egress from it, as they are viewed as part of that establishment, which it is the chief point of honour with a Mussulman to guard from the view of another. The men slaves are employed as menial servants, and having free communication with others, and means of complaint, are generally well treated; but none except those who have access to the recesses of the Haram, can judge of the treatment which the females receive. The Mussulman slaves however are comparatively few in number: the great slave population consists of the Hindoos, of whom none are confined, and all of whom, with the exception of a very few, are employed in agriculture, and may be termed field slaves, though occasionally employed in domestic service." Mr. Campbell says "in regard to food, clothing, employment, treatment and comfort, there exists the greatest contrast between the domestic and agrestic slaves in the territories under the Madras Government. The domestic slaves, confined principally to the Mahomedan families, being brought up invariably in the creed of their masters, are at once amalgamated with the family itself, who treat the males indulgent-

Slavery in India, 1628,
p. 897.

Appendix I.
Public Report from Select Committee of the House of Commons, 1832, p. 453.

ly, with somewhat of that privileged familiarity allowed in all countries to those who are permanently attached to a family, and are rather its humble members by adoption, than its servants or slaves. They are well fed, well clothed, and employed in domestic offices, common except in families of the highest rank, to many of their master's relatives. The free communication with others, and facility of access to the British tribunals, which the want of all restraint over egress from the house ensures to the male domestic slaves, combines with the indulgent treatment of their masters to qualify their bondage, so as nearly to exclude it from what the term slavery implies. Such however is not the lot of the female domestic slaves, employed as attendants in the seraglios of Mussulmans of rank; they are too often treated with caprice, and frequently punished with much cruelty. Once admitted into the Haram, they are considered part of that establishment which it is the point of honour of a Mussulman to seclude from all communication with others. The complaints made to me as superintendent of Police at Madras, against the Nabob of Arcot, and subsequently when Magistrate of Bellary, against the brother of the Nabob of Kurnool, gave me an insight into transactions committed in the recesses of the female apartments of these two personages, which has left on my mind a strong impression of the cruelty and wanton barbarity with which this class of female slaves were subject to be treated." "Indeed (he adds,) little doubt can be entertained that the seclusion of female slaves in the Harams of Mussulmans of rank, too often precludes complaint, prevents redress, and cloaks crimes at which Europeans would shudder."

Mr. Campbell says, he does "not think that domestic slaves are ever sold." "Individuals generally become domestic slaves, (he remarks,) by being sold when children, by their parents, in years of scarcity." "A Hindoo however who buys a child on such an occasion," "treats it as a Briton would, not as a slave but rather as a servant to whom food and raiment are due, and whose wages have been advanced to maintain the existence of the authors of its being, authorized by nature to contract for its service until it is old enough to confirm or cancel such compact." "On the child attaining maturity it is, in practice, as free amongst the Hindoos as amongst Britons unless long habit or attachment induces it voluntarily to acquiesce in a continuation of its service." But "under the spirit of proselytism which characterizes the Mussulman faith, a male infant is no sooner purchased than it is circumcised; and whether male or female, it is invariably brought up in the Mahomedan creed, which, if it be a Hindoo, (as is usually the case) irrevocably excludes it from all return to its parents or relations." "Besides the purchase of children in years of scarcity, I have heard, (Mr. Campbell adds,) of natives, to cancel a debt, voluntarily selling themselves as domestic slaves for a certain number of years, but this is unusual." "There can also be no doubt that children are sometimes sold without the knowledge of their parents." Mr. Campbell here alludes to discoveries made by him as Superintendent of Police at Madras reported in a letter to Government, dated 27th May 1818, in which he stated that "His Highness the Nabob of Carnatic, the various branches of his family, and indeed the whole of the principal Mussulmans at Madras, were in the habit of purchasing female children to serve as domestic slaves in their families" and that to supply this demand, certain native women made a trade of child stealing.

DANCING GIRLS.

Another condition which is considered by many as a species of slavery, prevails more or less in most of the districts under the Madras Presidency, but chiefly in the Southern districts, and most of all it would appear in the district of Tinnivelly at the extremity of the Peninsula. The subjects of it are the dancing girls entertained on the establishments of the Hindoo temples. They are purchased in infancy by women of the companies attached to those establishments; who bring them up with great care, and treat them it is said with as much kindness as if they were their own children, and indeed commonly adopt them, and leave their property to them at death. The resemblance to slavery consists in the children being purchased by strangers, separated from their natural connections, and brought up in a manner to fix their destiny for life without a choice on their part. They are cut off from the charities of home and family relations, and are trained to a public profession, which but too surely involves them in a life of immorality, exposing them particularly to prostitution which it may be said is their common lot.

Dr. Buchanan remarks that "the dancing women and their musicians now form a separate kind of caste; and a certain number are attached to every temple of any consequence. The allowance which the musicians receive for their public duty is very small; yet morning and evening they are bound to attend at the temple to perform before the image. They must also receive every person travelling on account of the Government, meet him at some distance from the town, and conduct him to his quarters with music and dancing. All the handsome girls are instructed to dance and sing, and are all prostitutes, at least to the Bramins. In ordinary sets they are quite common; but under the Company's Government those attached to temples of extraordinary sanctity are reserved entirely for the use of the native officers who are all Bramins, and who would turn out of the set any girl that profaned herself by communication with persons of low caste or of no caste at all, such as the Christians or Mussuhmans." "They are seldom now called upon to perform in private except at marriages." In another place he says "all the dancing girls in this country are dedicated to the service of some temple."

Journey, vol. 2, p. 266.

Vol. 1, p. 307.

We observe that the Madras Government had this subject under consideration in 1825, upon a representation from the Collector of Tinnivelly, who recommended that the practice of selling and purchasing female children for the profession of dancing girls should be prohibited, on account especially of the immoral life to which it consigned them. Upon this occasion the Government declined to interfere "adverting to the nature of the institution of dancing women, and to its connection with the ceremonies and observances both religious and civil, of the great bulk of the people," remarking also, that "loss of personal freedom is not among the consequences of being brought up to be a dancing woman, and that the species of immorality that the interference would propose to redress prevails, and is generally tolerated, in the most enlightened and highly civilized nations of Europe, and it is much more closely connected with general depravity and with misery in England than it is in India."

Slavery in India, 1828, p. 935

The Government did not take notice of an additional argument urged by the Collector of Tinnivelly for the measure proposed by him, that "it would serve as a

check upon child stealing, which is occasionally practised under the pretence of purchase." we think however that it deserves attention, since we find it stated in the more recent reports that in Tinnivelly the supply of these establishments is kept up mainly by girls procured in the neighbouring territories of Travancore, and smuggled into the district, and bearing in mind the practice of kidnapping which formerly prevailed in that territory to supply the demand for slaves in Malabar.

SALE AND PURCHASE
OF CHILDREN FOR PROS-
TITUTION.
Ibid. p. 934.

The selling or purchasing of children for *the avowed purpose of prostitution* we observe, was declared by the Judges of the Foudjarree Adawlut at Madras, on the occasion in question, to be an offence punishable under the existing law.

SALE AND PURCHASE
OF CHILDREN AS SLAVES.
Ibid. p. 907.

In the proceedings of the Foudjarree Adawlut under date the 23d March 1820 a case is mentioned in which "the charge was for selling a free born female child into slavery, and one of the prisoners was the mother of the child." "The transaction, (it is stated) was fully proved on the trial, but not being punishable under the Mahomedan law, which has not in this point undergone any legislative modification, the Court directed the release of the prisoners, in conformity with the Futwa of their law officers."

In reporting this case to Government the Judges took occasion to observe that "the purchase and sale of persons freeborn involved an obvious infringement of inherent rights, and it did not appear that this traffic had the sanction of old and acknowledged usage, or that its suppression would offer violence to the prejudices of the native subjects of Government."

Ibid. p. 911.

The Board of Revenue in their proceedings, under date 25th November 1819 had previously recommended to Government to pass a Regulation in which among other provisions, "the further purchase of free persons as slaves, should be declared invalid and illegal."

Ibid. p. 126.

The subject was again brought under the notice of the Madras Government in 1825, by a proposition of Mr. Cotton Principal Collector and Magistrate of Tanjore, that the sale of children, except by their own parents in seasons of great scarcity and distress, and the purchase of children except directly from the parents, should be prohibited under a penalty. "The Governor in Council apprehended, that there would be great danger of doing harm rather than good, by any attempt to regulate and restrict by law, as proposed by Mr. Cotton, the practice of selling children. It is obviously desirable, he observed, to avoid giving that sanction to the practice which in the cases not prohibited would be implied by that restriction. The evil appears to arise from the usages of the country, with respect to domestic slavery a subject of much difficulty and delicacy, and where there is more ground to hope for improvement from the gradual operation of the administration of police and justice, in a spirit favourable to personal freedom, than from positive enactments." But while the Government of Madras refused to interfere in this matter in its legislative capacity, we find, as we have noticed in another part of this report, that one of its Magistrates, in 1828, issued a proclamation forbidding all persons to buy or sell children, on the ground that the regulations do not authorize it.

p. 201.

And lately, (even since the above was written,) the exposition of the Mahomedan Law above referred to, upon which the Judges of the Foudjarree Adawlut acted in 1820, has been set aside by a new construction of the present Mahomedan Law

Officers of the Fouzdarree Adawlut, who have declared that according to the Mahomedan Law the sale of a child by its parents "is not punishable when committed in a season of famine, and that at all other times it is punishable by Tazeer," which opinion the Court of Fouzdarree Adawlut has promulgated for the information and future guidance of the Subordinate Judicial Officers.

The order of the Fouzdarree Adawlut containing this opinion will be found in the Appendix, together with a report explaining the circumstances under which the Judges thought it advisable to issue it. Appendix XV.

It will be seen that the present Mahomedan Law Officers were required to submit their reasons for dissenting from the Futwa of their predecessors, and those officers then repeated the opinion already given, observing that it was accordant with the decision recorded in the books of Huneefah, that in a time when scarcity does not prevail, the people of this country are forbidden to sell their children, and that to do so renders them liable to Tazeer "or discretionary punishment."

"Of the correctness of this last opinion" the Judges remarked, "there could be no doubt," and adverting to the different references made to them on the subject, the discordant opinions which had been given, and the doubt generally entertained by the officers in the Provinces as to the course they were authorized to pursue in such cases, they deemed it proper to promulgate it for the future guidance of the Judicial Officers. Thus we find that a circular order of the Fouzdarree Adawlut founded upon a construction of their Law Officers directly at variance with a Futwa given by their predecessors, has made a penal offence of what was before declared not to be punishable by the existing law, and which the Government declined to make punishable by a new law.

We have obtained the opinion of the Kazeer of the Nizamut Adawlut at Calcutta upon the point in question, and we find that he differs from the Madras Law Officers, holding that parents who sell their children, even in dearth, are liable to Tazeer or discretionary punishment, remarking however that the degrees of punishment will depend upon the existence, or non existence, of the need and urgent want of the parents. Appendix XV.

EXPORTATION OF SLAVES.

With respect to foreign traffic in slaves, we have already referred to a proclamation issued by the Madras Government in 1790, to suppress the Trade which had been carried on by the French and Dutch in the Northern Circars, which prohibited absolutely any traffic in the sale and purchase of slaves. We have noticed also an order passed by the Commissioners for Malabar in 1793, prohibiting "the practice of shipping kidnapped and other natives as slaves" from the ports of that coast, and we find that in the Custom House Regulations for that Province prepared by the Commissioners, there was a strict prohibition against the exportation of slaves. The penalty was a fine of 250 Rupees for each offence. In former times, it appears, the export Slave Trade was principally encouraged by the French and Dutch on this coast. Children were frequently stolen and full grown persons carried off by force to be ultimately sold to foreign traders; and with a view to prevent the revival of this traffic, a provision to the same effect prohibiting the export of slaves from Ma- p. 147.
p. 214.
Slavery in India, 1828, p. 548.

Sec. 18, Clause, 14.

Slavery in India, 1838,
p. 370.

labar was introduced in Regulation II of 1812, but was rescinded by Regulation II of 1826, upon the advice of the Advocate General, as unnecessary and inconsistent with the Act of 51 Geo. III, cap. 23.

Slavery in India, 1838,
p. 560.

Upon the discovery of the traffic in slaves from Travancore into Malabar, the Advocate General being of opinion, that the Statute 51, Geo III, c. 23, applied in all its consequences and penalties, to all persons residing within the King's or Company's territories, including therefore native subjects, recommended that the substance of the Act should be published throughout the provinces under the Government of Madras; but the Governor General in Council being referred to, did not consider the provisions of the Act applicable to the importation or removal of slaves by land, and suggested, that a Regulation should be passed at Fort St. George, for preventing such importation, and inquiries having been made into the operation of Regulation X of 1811, of the Bengal Code, which was passed for the same object, and it appearing that it had proved fully effectual, it was proposed, that the Madras Regulation should contain corresponding provisions. The provisions of the Act of Parliament it was observed, would effectually restrain the importation of slaves into the British territories by sea.

Ibid. p. 933.
And Slavery in India,
1838, p. 370.

No Regulation however was passed, and subsequently in 1825, the Advocate General of that day, Mr. Compton, expressed his opinion, that the offence provided for by the Statute in question, although committed *on land* and even by persons not inhabitants of Madras, might be tried in the Supreme Court of Judicature, and that it was not competent for the Government to invest the local Courts with power to punish that offence.

This opinion was circulated for the information and guidance of the Courts, and Regulation II of 1826 was passed, the preamble of which declares generally, that the offence of carrying away or removing any person from any country or place whatsoever, for the purpose of being sold or dealt with as a slave is punishable by the said statute.

Slavery in India, 1838,
p. 371.

In 1830, the Foujdaree Adawlut brought under the notice of Government, a case referred to them by the Judge on Circuit in Malabar, of a free person, a female, alleged to have been removed from one part of the Malabar district to another, for the purpose of being dealt with as a slave, and pointed out, that in Bengal, the Slave Trade Act had not been construed as at Madras, the importation of slaves by land being considered as an offence punishable not under the Statute, but under Regulation X of the Bengal Code. In consequence of this representation Mr. Norton the successor of Mr. Compton, as Advocate General, was called upon for his opinion, and having considered the whole subject, he made a full report upon it, referring to both the Act 51 Geo. III. c. 23, and to that by which it had been repealed 5 Geo. IV. c. 113. Having reviewed and discussed the provisions of both Acts, he stated that "he had very decidedly come to the conclusion, that neither in the present instance or any other, the removal of a person from one part of the Company's territories in India to another, in order that such person should be there dealt with as a slave, is an offence within the Slave Trade Acts,—but that it becomes so and is triable only by the local law or regulation." He observed, however, that the last statute does "certainly imply," that an offence against it "may be committed on land, and does not merely apply to substantive offences done at sea, or acts accessorial to such of-

Slavery in India, 1838,
p. 377.

fences"—but "if we are to conclude that the land removals are contemplated, we must expressly note also, that they are removals at least into foreign countries; and that such offences are only to be tried by the King's especial commission issued for such purpose. Moreover even this mode of trial is only to be resorted to when it is committed in a place not being within the local jurisdiction of any ordinary Court of a British Colony, Settlement, or Territory."

The Supreme Government upon this were requested to furnish the Madras Government with information as to the construction put upon the Slave Trade Acts in Bengal. Ibid. 379,

In answer, the resolution of the Supreme Government under date the 9th September, 1817, was referred to, in which the statute was construed as applicable only to the importation or removal of slaves by sea, and it was stated that nothing had since occurred to induce the Supreme Government to alter that opinion.

At the same time it was observed, that Regulation X. of 1811 was still in force, although its provisions so far as they regard importation by sea had been rendered nugatory by the statute.

The Madras Government in reporting this correspondence to the Court of Directors, observed, that it would be satisfactory to them to be made acquainted with the opinion of the Company's Law Officers in England, as to the correct construction of the Slave Trade Laws. The Court replied, that the subject had been transferred to the Law Department. The result we are not aware of. Slavery in India, 1838, p. 33.

In the mean time, the Court of Foujdaree Adawlut, on the 30th April, 1830, circulated Mr. Norton's opinion for the information of the Magistrates and Criminal Courts with the following comments and order. "Under Mr. Norton's construction of the Act, the removal of a free person from one part of India to another, to be dealt with there as a slave without reference to any *traffic by sea*, is an offence not cognizable by the Supreme Court, but by the Established Criminal Tribunals in the interior. Persons accused of such a crime should accordingly be committed for trial before the Court of Circuit." The Court of Foujdaree Adawlut, at the same time directed, that the prisoners in the case upon which the reference had been made and who had been admitted to bail, should be brought to trial at the next sessions. Whether this was done or not, and if done, what was the result, we are not informed. Printed Circular Orders, p. 188.

But we find a case reported in which two persons were tried upon the charge of having "purchased 27 children, whom they were conveying to Hyderabad for the purpose of domestic slavery." The Judge who tried the case noticed it in his report as "of a very remarkable character," as "perhaps embracing the first indictment of the kind upon record, since the crime it sets forth, has been ruled cognizable by the Honorable Company's Courts." The Foujdaree Adawlut considering that the children had not been ill-treated, and "perhaps rescued from an untimely death," "deemed it sufficient to pass a sentence of three year's imprisonment with labor without irons on the principal offender," the accessory being acquitted and released. Slavery in India, 1838, p. 429.
Proceedings Foujdaree Adawlut, 26th July, 1834.
Judge's Report, 28th June, 1834.

The offence charged in this case, as stated by the Judge who tried it, was that of "conveying children, the subjects of the British Government, by land, to foreign

states for the purpose of slavery." We presume, that it was considered as falling within the scope of the order of the Foujdaree Adawlut above mentioned as an offence cognizable under Mr. Norton's construction of the Slave Trade Act by the established criminal tribunals in the interior. But if, as involving an attempted removal into a foreign country, it might according to Mr. Norton's opinion, be treated as an offence against the statute, it is not clear from that opinion, that it could be tried by a Provincial Court. The order of the Foujdaree Adawlut it appears to us, is decidedly erroneous in laying it down generally, that "under Mr. Norton's construction of the Act, the removal of a free person, from one part of India to another," to be dealt with as a slave, (including necessarily a removal from one part of the Company's territories to another,) "is an offence cognizable by the established criminal tribunals in the interior." For Mr. Norton plainly says, that such removal is not an offence within the Slave Trade Act, but becomes so only by the local law or regulations of this country. Now there is no law or regulation of the Madras Code which make such removal an offence. And we have before us a recommendation of the Judges of the Foujdaree Adawlut to the Madras Government, "that the provisions of Bengal Regulation X of 1811, and III of 1832, respecting the importation of slaves and their removal from one zillah* to another should be introduced into the Madras Code, with "the rule contained in clause 2, section 30, of the Bombay Regulation XIV of 1827, respecting the exportation of slaves, or any persons to be sold into slavery," and the draft of an Act framed by them for that purpose. The following is the rule proposed on the latter point.

"Any person who shall hereafter export slaves from a place immediately dependent upon the presidency of Fort St. George, into a foreign territory, without first obtaining a written permission from the Magistrate, whose duty it shall be to grant the same only when satisfied that the object is not sale, shall be punishable on conviction before a criminal, joint criminal, or native criminal court, with fine not exceeding 300 rupees, commutable by imprisonment not exceeding six months, or one year's imprisonment, or both: and the slave on returning to the territory subject to the presidency of Fort St. George, shall be held to be free."

The recommendations we have thought it proper to offer on this subject will be found in another part of this report.

* They recommend the substitution of the term Zilla for that of Province, which is used in the Bengal Regulation.

Slavery in India, 1828, p. 487.

Ind. p. 401.
September 1, 1835
Government of Madras
to the Law Com-
missioners, 11 1836.

PRESIDENCY OF BOMBAY.

¶ In drawing up this division of our Report, we have had to work with materials not only scant in quantity, but, with rare exceptions, unsatisfactory in regard to the quality of information required for compiling a minutely accurate account of the present social position of the slaves.

¶ In fact, the returns to the queries of the Commission, circulated in 1835, Appendix XVI. when the Criminal Code was under preparation, may be said to be almost the only serviceable materials at command for our present purpose. Those returns embrace, it is true, all the localities under the Presidency of Bombay ; but in details, such as we require, they are for the most part defective,—owing to the limited range of the enquiries, which were confined to a few specific points touching the relations between slavery and crime.

¶ This dearth of direct evidence unfortunately is not relieved in respect of Bombay by recourse to the printed Parliamentary and other slavery—papers of which we have largely availed ourselves in drawing up our Madras Section particularly : neither have we enjoyed, as in preparing that of Bengal, the advantage of examining witnesses possessing personal acquaintance with the actual condition of slavery on this side of India. With respect to Parliamentary Papers, besides a single paper in the Appendix (No. 1) to the Report of the Select Committee. House of Commons, dated 16th August, 1832, p. 421, the collection printed by order of the House of Commons, in 1838, is the only one in which there is any important information on the subject in relation to Bombay. In this volume, we have found pretty full information respecting the Arabian and African Slave trade as connected with Bombay and the west of India, which we shall notice particularly in the sequel. It also contains,—the proceedings of the Government of Bombay and the Reports of the officers in the provinces which led to the enactment of the restrictive provisions of Regulation 14 of 1827 in the Code of that Presidency,—and reports of proceedings in pursuance of those provisions. But the statistics of the slavery actually existing are but cursorily noticed.

The 4th volume of the collection of Judicial and Revenue papers, printed by order of the East India Company a few years back, is almost entirely made up of able Reports by Mr. Elphinstone and Mr. Chaplin (successive Commissioners in the Deccan) and by their intelligent Assistants in the administration of the districts above the Ghauts conquered from the Peishwah in 1817-18, which were formed, together with Candeish, into a separate jurisdiction,—while the provinces below, fruits of the same remarkable campaign, were annexed to the Government of Bombay. But these reports, copious and particular on so many interesting points of historical, statistic, and administrative detail, are by no means so on the topic of slavery. Indeed, the earliest series of these Reports (for 1819-21) may be said hardly to notice the subject, and though in those of 1822 a general account is given of the origin and nature of the slavery prevailing in the Deccan, we do not find in them details illustrative of the condition and social position of the slaves.

From the information we have gathered from the papers referred to, we are led to conclude that predial slavery is very limited in the territories under the

Bombay Presidency. It would appear, indeed, to be confined to the Zillah of Surat and to the Southern Mahratta country.

Dated Feb. 22, 1836.
Dec. 16, 1836.

Appendix XVI.

Appendix XVI.

Among the returns in answer to the queries of 1835, those of Mr. Grant and Mr. Vibart, the Judge and Principal Collector of the Zillah of Surat, both speak of a species of servitude, distinct from that of the ordinary domestic slave, the subjects of which are agricultural labourers. The former of these gentlemen classifies the servile population into the "Gholams" or absolute slaves "being persons or their offspring who have been purchased," and the "Halces" or bond ploughmen serving a creditor to discharge a debt. They are called "Halce," he says, from the word "Hul" signifying a plough, "their chief employment being that of ploughmen." Mr. Vibart distinctly states that the Halce is an hereditary bondsman "almost the only description of slaves," "and usually employed in agricultural labour."

By Mr. Lumsden, Collector of Surat.
Slavery in India, 1838,
p. 433.

Item 433.

In a report of 1825, also we find mention of agrestic slaves in the same district, as "frequently attached to the soil" in the possession of "the Dessaces, Buttela Bramins, in Parchole Soopah and some other Pergunas." They are distinguished in this report from the bond servants who voluntarily engage to labour in payment of loans made to them for their marriage, or the like occasions. The slaves, it is said, "are all of the Coolee, Doobla and other poor classes of the Hindoos."

Slavery in India, 1835,
p. 443.

We see a similar notice of slaves attached to the soil in the districts of Dharwar, Hoobley, and Noulgoond in the Southern Mahratta country, where, it is said, the "slaves attached to, and who superintend wuttun land, are stationary, though the owners of the wuttuns may not be so; but the slaves of Sircar Ryuts accompany their masters whenever and wherever they emigrate."

Domestic slavery is not thus limited; but on the contrary seems to prevail in those provinces as in the other provinces of India.

We proceed, as well as the limited information we possess admits, to enquire into,

1st.—The origin of slavery in the territories under this Presidency;

2ndly.—The laws and usages affecting it;

3rdly.—The practical condition of the slaves.

I.—ORIGIN OF SLAVERY.

The enquiry into the origin of the slavery existing under the Bombay Presidency, is facilitated by the Political circumstances and history of the territories subject to it, which are almost all (save Bombay Island itself) comparatively of recent acquisition and are inhabited by people professing, for the most part, the same religion.

Treaty of Poornundur,
1776, confirmed in 1782.

From the original cession of the town and castle of Bombay to Charles II, there is a very long interval to the possession of Salsette in 1776, our next permanent acquisition on that side. The districts of Malabar, won from Tippoo by Lord Cornwallis, in 1792, and at first intended for annexation permanently to Bombay, were transferred to Madras after the conquest of Mysore in 1799; and Bombay gained little besides the undivided rule in Surat with a district adjacent, till the great Mahratta struggle of 1803. The results of that war left Bombay a gainer, directly and

The Nabob of Surat
resigned in..... 1799
Chowranry district
acquired..... 1800

indirectly from Scindia, Holkar, the Peishwa and the Guickwar, of considerable territory in Guzzerat and a small portion of Kathiawar.

Guickwar share	
of Kutch,.....	1800
Broach,.....	1802
Kaira	1803

Finally the mighty military revolution effected by Lord Hastings' Pindarree War, of 1817, utterly broke up the Mahratta confederacy, and stripped its chief, the Peishwa, of his entire dominions. By this event, and the antecedent treaty of Poonah, Bombay acquired the whole Concan or Seaboard, and the western Carnatic above the Ghauts from the Tamboodra to the Sathpoora Mountains,—more than double her previous area.

N. Concan.	} annexed to	Salsette.
S. do.		
Kandesh	} constitu-	ted Dec-
Ahmednugur.		
Poonah.		
Dharwar.		
		can Com-
		mission
		ership.
Sattarah,	reserved for the	
Rajah.		

In the entire of the vast provinces thus acquired by Bombay, Hindoo Governments were in possession and actual vigour, and had been so, more or less extensively, since the latter part of the 17th Century, when the Mahrattas began to wrest their ancient provinces from the Mahomedans. But the English possessions in Bengal and the Coromandel Coast, (Tanjore excepted) were conquered from conquering Mahomedans whose institutions were found in full force; the Hindus being left in doubtful possession of so much of their religious and civil codes as might suit the views or temper of the victors. In the Bombay Provinces, this order of things had long been reversed by the victorious Mahrattas,—though the tolerant spirit of Hinduism interfered little with the internal usages of the remaining Moslem population. But we may reasonably doubt whether a Moslem could have made good his plea of legal ownership against an alleged slave in a Mahratta Court,—even on proof of descent from a captive infidel of the pious wars of Mahmood or Aurungzeeb. We may, therefore, conclude that the strict Mahomedan slave law was practically in a state approaching to abeyance,—at least as against Hindus and their descendants; so that if Mussulmans held Hindus as slaves at all, it was rather by the acquiescence of the individual and connivance of the authorities, or by the force of undisturbed usage.

Judicial Selections, IV,	
p. 270.	
Chaplin Deccan report.	
Briggs do. do.	

The more common origin of slavery, properly so called, appears to have been *sale*,—either self-sale by which adults consigned their persons and services to a purchaser of their own accord,—or sales by which the parties were disposed of without their own consent by persons exercising power over them. Thus people were formerly imported from Africa, for the purpose of being sold as slaves, and were also brought by Brinjarras and other itinerant tribes, chiefly from Berar and Nimaur. These rovers kidnapped children, or bought them from their parents in time of dearth, when adults even would often sell themselves for a subsistence. The main source of slavery in Western India seems to have been the sale of children, however obtained, by dealers from without. But there is not a doubt that numbers of children have also been sold by their parents within the provinces, and are so even in our days, not for gain, nor from want of natural affection, but generally from feelings of an opposite kind, during the famines to which these parts of India are subject.

Another source of slavery was the practice of sentencing to that condition criminals (not being of the Brahminical class) guilty of offences under the degree of capital, or in commutation of death. Adulteresses, particularly with a paramour of low caste, were thus dealt with. Prisoners taken in war could not be lawfully made slaves.

Appendix XVI.
Bondsmen.

In general, the progeny of persons reduced to slavery in any of the above modes were considered as slaves by birth. In one of the returns, however,—and certainly one of the best,—that of Mr. Simson, there is a distinct assertion, that slavery, whether of the compulsory or bond class, did not in the Southern Mahratta country descend on children, who were born free even if both father and mother were slaves,—the property of one master. We have not observed that this broad doctrine is confirmed by evidence from other quarters.

Among the slaves by birth, also may be reckoned the outcaste Hindoo offspring of unlawful connexions between Hindoo men of low caste and high caste women, or between prohibited degrees of kindred or interdicted classes generally. The offspring of all such connexions seem to have been considered in the light of family-slaves by birth, whether either parent were enslaved or free.

The other description of slavery, that of the debtor bondsman—considered as in some respects voluntary,—appears to have been most prevalent at Surat, where as above noticed, those subject to it are designated by the name of *Halee*, or ploughman, and are employed in agricultural labour. It was not, however, unknown, though it was in disrepute, in Maharashtra. These bondsmen were compelled personally to work out their *debt*: but the evidence of the returns is conflicting as to the effect of the father's condition and engagement, on the fate of his descendants. We are disposed to think that, in Maharashtra proper at least, children were not forced, however meritorious such a pious labour might be, to work out the balance of debts uncleared by the toil of a deceased parent. But it was certainly otherwise in Surat. There the children of *Halees* do appear to have been joined in the liability; and this must render the species of servitude virtually hereditary, the balance being constantly swelled by marriage and other expences, defrayed by the creditor master according to usage,—independant of the food, raiment and lodging which he is bound in all cases to provide.

Appendix XVI.
Simson—Dharwar,
Grant—Surat,
Vilhat—do.

BONDSMEN.

The *Halee* appears to have had a right to acquire property by gift, inheritance, working at spare hours or otherwise,—his debt to the master notwithstanding. But with respect to other debtor bondsmen, upon such property acquired and existing at the death of the debtor, the master had a claim as a creditor of the estate; although during the life of the bondsman, he could not meddle with the property,—payment of the debt having been provided in another shape, namely the Commutation Bond.

Appendix XVI.
Mr. Grant, Surat,
Vilhat, do.

Appendix XVI.
Simson.

Features, common to both of the great divisions of servitude, appear to have been, that,—although all under Brahminical degree might be enslaved in one or other class, yet none could be consigned to owners of caste inferior to their own. It was held, that the status of slavery did not of itself damage the individual's caste; and by custom having the force of law, a master could not exact services incompatible with his slave's caste.

Appendix XVI.
Simson, Dharwar.

II.—LAWS TOUCHING SLAVERY.

The servile condition being distinctly recognized by the old Hindu and Ma-

homedan Codes as well as by the laws or ancient customs prevailing in full force in the various provinces added from time to time to the Bombay Presidency, we as sume, that agreeably to civilized practice and to prudent policy, slavery, like other institutions which we found, remained in undisturbed legal vigour until altered by the dominant nation.

The first occasion in which the Bombay Government ventured to touch the question of slavery, was in A. D. 1812, when they seized the opportunity of the passing of a set of rules for the guidance of the Court of Petty Sessions on the Island of Bombay, under the title of Rule, Ordinance and Regulation I. of 1812, to enact the following rules on slavery and the Slave Trade.

"TITLE TWELFTH, OF THE SLAVE TRADE AND SLAVERY."

"All importation of slaves into this Island for sale is prohibited."

Bombay Reg. I. 1812,
p. 341.
Art. I.
Art. II.

"The Petty Sessions shall, in such cases, emancipate the slave and send him or her back to their family, or to the place from which he or she was brought, at the expense of the importer. Where the slave is desirous of remaining, the importer shall pay him the money which would otherwise have been employed in defraying the expense of his return. The Petty Sessions may inflict further imprisonment in aggravated cases.

"All children, born of parents in a state of slavery in this Island after the first day of January 1812, shall be free. But, if the masters of their parents or any other persons support them from birth till they be capable of working, they shall be compelled to work without wages for such masters or others for such number of years as the Petty Sessions shall determine to be a compensation for their support during childhood."

This enactment, being applicable only to the Island of Bombay, was followed in the succeeding year by Regulation I of 1813, prohibiting the importation of slaves from foreign countries into the places immediately dependent on the Presidency of Bombay. But the preventing of the sale of "slaves," though declared in the preamble to be one of the objects of the Regulation, was altogether unnoticed, and the important provision in the rule above quoted for securing the freedom of children, born after a specified date of slave parents, was omitted in the Regulation.

In this Regulation the Bombay Government only followed up the course of legislation in Bengal, and confined themselves to prohibiting all importation of slaves from foreign countries by sea or land into the territories under that presidency under penalties of fine, imprisonment, and the costs of returning to his own country, any imported slave so desiring, who was in all cases to be set free. The *external* traffic in slaves may have been destroyed by this Regulation, but the *internal* traffic in purchases and sales remained untouched. The range of the Regulation too, was limited to a comparatively small tract of country, Salsette, Surat, and the small portions of the Guzzerat and Kuttwar provinces then possessed by the British Government.

On the conquest of the North and South Konkan from the Peishwa in 1818, and their annexation to the Bombay presidency, the Slave Regulation became law

in this extensive stripe of country, reaching nearly from Damaun to Goa below the ghauts. But it did not become law in the more extensive conquests above the ghauts, which, as we have before stated, were separately administered by a Commissioner as Non-Regulation provinces. In these, therefore, slaves might be introduced from without, for sale; while into the Konkan, in common with the old Bombay provinces, slaves could not be so imported in virtue of Regulation I. of 1813. But in all the provinces of the Bombay presidency, slavery, and internal dealing in slaves remained equally undisturbed by law, until 1820, when a great and remarkable change, no less than the absolute prohibition of all selling of slaves, was introduced into the reserved Deccan provinces only,—in which slavery certainly had no less root in law and custom than elsewhere in the west of India.

Slavery in India, 1828,

The Hon'ble Mr. Elphinstone, Commissioner, appears to have been twice applied to by Captain Briggs, his assistant in charge of Candesh, (in December, 1818, and September, 1819,) for instructions on the subject of the prevailing slavery; and to have issued orders in consequence, that no alteration should be made in the existing laws and usages. Of these appeals, the last was a special reference to ascertain whether the practice of "carrying about slaves for sale" was to be permitted, and it distinctly set forth that such practices were frequent, and the subjects of them usually young women and girls, brought by Brinjaris, professing to have purchased them in time of recent scarcity.

The Commissioner in reply instructed Captain Briggs to sanction the sales described in his reference, but denounced the severest punishment against any who should attempt to carry off young people by force.

When this correspondence came before the Supreme Government, under whose orders the Deccan Commissioner was specially placed, the Marquis of Hastings, then Governor General, desired to know Mr. Elphinstone's reasons for giving his sanction to the practices described; and adverted to the difficulties which would be found in checking the practice of carrying off young people by stealth. In reply, Mr. Elphinstone urged the general principle (which guided his administration) of non-interference with the laws and usages of the new country, and he adverted to a case which had occurred some years previously, and in which this abstinence had been enjoined in a question concerning a refugee slave in the cantonments at Poonah.

Mr. Elphinstone having in the mean time been advanced to the Governorship of Bombay, when occasion was taken to annex the Deccan to that presidency,—the rejoinder of the Supreme Government on the slave question was addressed to the Governor in Council of Bombay. It set forth, that, the importation of slaves by land or Sea, and the sale of such slaves "being strictly prohibited under the Presidency of Fort William, His Lordship was not aware of any sufficient objection to the extension of a *similar prohibition* to the territories conquered from the late Peishwa as well as to the dominions under the Presidency of Bombay generally, if it does not already exist in those dominions. And the Governor General, therefore, recommends this point to the consideration of the Governor in Council of Bombay."

The correspondence seems to have closed with an acknowledgment by Mr. Elphinstone, in Council, of the above letter on the subject of the sale of slaves in the territories conquered from the late Peishwa, and an assurance that instructions had in consequence been issued to the Commissioner in the Deccan.

The Bombay Government, further states,—in reference to the doubt expressed as to the actual state of the laws at Bombay, regarding import for sale of slaves by sea or land,—that the trade in slaves stood prohibited at that Presidency by Regulation I. of 1813.

We have quoted the correspondence with some minuteness, because it seems to us that the intention of Lord Hastings at that early period of newly acquired dominion over a proud slave-holding people like the Mahrattas, hardly went so far as the measure adopted by Mr. Elphinstone. The Bombay Government were called on to “consider” certain elements of a grave political question under discussion. They appear to have construed this into a positive order to act, and they at once prohibited all sales whatever of slaves, instead of reporting how far it might seem expedient to bar the importation of slaves from without into the Peishwa's late dominions as described by Captain Priggs,—and the hauling of them about for sale. In this case, as in those of the Delhi and Cuttack proclamations, the people appear to have acquiesced in the prohibition; at least, we do not gather, from the Deccan Reports of 1822, or our later returns, that dissatisfaction resulted from the measure. We may, perhaps infer that the value of slave property affected necessarily by such a measure was very low; though of domestic slaves, at least, the numbers were considerable.

The prohibition itself, issued by the Bombay Government, not being in evidence before us, we only infer its stringent provisions from allusions to it in the returns. We observe that Mr. Chaplin writes “the sale of slaves now stands prohibited by the order of the Supreme Government. This however has increased the price without putting a stop to the traffic.”

Selections vol. 4, Page 504.

But Regulation XIV. of 1827, of the revised Bombay Code, being of later date, and of general force every where under that presidency, sets all such questions at rest. Its comprehensive provisions, by regulating, distinctly recognize slavery and the sale of slaves, even, we presume, in the Deccan provinces,—although as we have related, every sort of sale had there been forbidden in 1820.

The volume of Papers on Slavery in India, printed in 1838, contains, as already noticed, the proceedings of the Government and the reports of the local officers which led to the enactment of those provisions.

The Governor Mr. Elphinstone in June, 1825, laid before the Council a minute, in which he observed that, from an old report of Sir C. Metcalfe on the territory under Delhi, it appeared that he had succeeded without opposition in putting a stop to the sale of slaves; the success of which experiment led him to think that the obstacles to abolition under the Bombay presidency had been over-rated. Referring to the interrogatories, formerly circulated by the Commissioner in the Deccan, he remarked, that the replies were rather unfavorable, but were directed rather against the emancipation of persons already in servitude, than against the prohibition of the

Slavery in India, 429. et seq.

sale of slaves. He was himself inclined to propose the entire prohibition of sale, but thought it proper first to consult the Judicial and Revenue Officers, and also the Regulation Committee, and the Sudder Adawlut. If entire abolition should be impracticable, he thought the following modifications might be adopted.

1. The transfer of grown up slaves allowed ; but the sale of children entirely forbidden.

2. The transfer of children permitted during famine, allowing the parents a right of redemption for a certain number of years after the sale.

3. The sale of women for common prostitution prohibited, but the women who keep such slaves allowed to sell them,—it being made penal on the purchasers to sell or expose them again to prostitution.

The first modification was intended to remove any objections to the interfering with what was then a marketable property : and also to meet a remark that slaves might often be at a loss for a maintenance if they were emancipated,—a result which would also occur, if the reduced circumstances of their master prevented his keeping them while the law forbade his selling them. This object of the modification, it was observed, might be attained by making the consent of the slave a condition of the transfer.

The second modification was intended to counteract an evil, anticipated by some, who urged, that the lives of many children were preserved during famine by the sale of them to rich people,—and that if Government prohibited this expedient it was bound to provide other means for their preservation. If the sale of children should be tolerated during a famine, Mr. Elphinstone thought, it should be confined to the parent, with a right of repurchase at the same price,—as was done by the Peshwa's government after the famine in 1803.

The reason assigned for allowing the sale of prostitutes was, that they are often purchased by men who wish to have them as concubines, and even as wives ; the worst of which conditions is better than that of a common prostitute.

The answers of all the officers referred to having been received, Mr. Elphinstone, in a minute dated 5th January 1826, observed that many of them dwelt on the inexpediency of emancipating those persons who were already in slavery, a measure which was never contemplated ; that most of them were unfavorable to the regulation, which proposed prohibiting the sale of slaves ; and that all (except one from a gentleman who had been but a few years in India) described the condition of a slave among the natives, to be as good as that of a hired servant,—an opinion he said in which the opportunities he had had of observing, led him to concur. On a general view of the whole correspondence, he was reduced to abandon the proposal of abolishing the sale of slaves at that time. The discontent and alarm the measure would create, he observed, might be considerable, while the advantage would be very small,—all the reports shewing that the sale of slaves was of rare occurrence, and the rules he meant to submit, being calculated still further to narrow its range. He thought that the three rules he formerly suggested,—in case an entire abolition of sale were found inexpedient,—might be adopted, with some additions, regarding the separation of relations, and measures for preventing the importation of slaves by sea or land, as well as for guarding against the kidnapping of children. He fur-

ther proposed that slaves should never be sold without the transaction being registered; but he thought a general register of all persons now in servitude inexpedient.

The exportation and importation of children who are slaves, whether for sale or not, he thought, should be prohibited except in time of famine.

Mr. Warden, one of the Members of the Council, also recorded a minute on the subject, in which he said that he did not apprehend the slightest danger or alarm in giving effect to the original proposition of the Government. He added,—“I presume not to sketch out the mode, or to fix the period of general emancipation, and perhaps the sudden manumission of those now actually in a state of bondage, though abstractedly just, might be politically unwise, but there can exist no good reason, either political or humane, against the British Government prohibiting the purchase or sale of all slaves, legitimate or illegitimate, after a specified time; and likewise ordaining and declaring that all children, male and female, born of parents in a state of slavery, shall from a like date be free.”

THE FOLLOWING ARE THE RULES WHICH WERE ENACTED.

“XXX. Clause.—1st. Any person who shall import into any zillah subordinate to Bombay, a slave for sale, (and sale within one year after importation shall be deemed conclusive proof that such was the object of the importation,) shall be punishable, if the slave be of ten years of age or upwards, with fine, or ordinary imprisonment not exceeding one year, or both; and, if the slave be under ten years of age, with fine, or ordinary imprisonment, or both; and further, the simple importation of a child under ten years of age in a state of slavery, except in time of famine, or immediately after, and on written permission granted by the Magistrate, is hereby declared illegal, and will be visited with the retributive measures described in Section XXXII.”

Clause 2d.—“Any person who shall export a slave from a zillah subordinate to Bombay into foreign territory, without first obtaining a written permission from the Magistrate, whose duty it shall be to grant the same only when satisfied that the object is not sale, will be punishable with fine, or ordinary imprisonment not exceeding one year, or both, and the slave on returning to the Bombay territories shall be held to be free.”

“Section XXXI. In addition to the preceding rules, the following sales of slaves within the zillahs subordinate to Bombay are declared to be illegal, and all persons concerned therein, either as buyers or sellers, will be punishable with fine or ordinary imprisonment, or both:

First.—All sales whatever, not registered by the Magistrate, whose duty it shall be after due investigation to grant or withhold such registration and a certificate thereof, according as the rights of the parties, and the provisions of the regulations may seem to require.”

“Second.—Any sale of a female slave, having a child under ten years of age, by which such child is separated from her.”

“ Third.—Any sale of a child under ten years of age, though already in a state of slavery, except in time of famine.”

“ Fourth.—Any sale of a child into slavery, except in time of famine and by one of the parents, in which case a right of redemption at the price of sale shall be reserved to either parent and the child, for the period of ten years.”

“ Fifth.—Any sale of a female for common prostitution.”

“ XXXII. Whenever an importation or sale of a slave has been pronounced to have been illegally made, the slave becomes thereby emancipated, and if Government shall so determine, on a report to be made by the Zillah Magistrate, if the case shall have been decided by him, and by the Criminal Judge in all other instances, a fine commutable into imprisonment according to their jurisdictions shall be imposed on the offender by those authorities respectively, and shall be expended when realized in re-exporting the emancipated slave to his own country.”

By the last section a report is required to be made to Government in order to obtain sanction for the imposition of a fine upon the offender, and the expenditure of it in re-exporting the emancipated slave. In the volume upon slavery in India, of 1838, we find a series of reports made accordingly, which came down to 1836. If this series comprise all the reports made in pursuance of the Regulation from the time of its enactment to 1836, it must have come but slowly into operation, the first report being dated in November 1831. In that year only one case was reported, in the following year only three cases, and in 1833, five cases, involving 20 persons who had been treated as slaves contrary to the provisions of the Regulations. In 1834, and the succeeding year, the cases reported were considerably more numerous, but the reports were mostly from two zillahs, Ahmednugger and Poonah.*

We remark that the Judges of the Sudder Adawlut observed upon the returns† made by the local officers in 1836 that, taken as a whole they lead to the gratifying conclusion, that the laws of 1827 are in successful operation for the gradual extinction of a practice so abhorrent, as is slavery, to natural right as well as to the real health of the social compact of civilized life.

Perhaps the beneficial effects of these enactments have extended beyond the mere intimidation of the penal clauses; for the returns shew a general impression on the minds of the people that the government and English gentlemen view slavery and slave-dealers with dislike and disfavor.

We may here notice two somewhat remarkable petitions from parties complaining of the effect of the laws of 1827.

The first was from the community of dancing girls of Kaira. In forwarding it to Government, the Collector observed, that they had stated verbally to him that as they neither give nor take in marriage, and by consequence have no families of their own, a few years would probably see the end of the race, since the Regulation prohibits them from purchasing children to succeed them in their calling.

Slavery in India, 1838,
p. 498.

* In 1836, only one case reported, but the reports extend only to the early part of that year.

† In answer to the Queries of the Law Commission.

In the petition they said, it had been "an old custom with them to purchase girls from their parents, who, through want, offer them for sale. These girls we rear up and treat as if they were our own children, and eventually they become our heirs; we also rely on them for our support. The purchase of girls by us being prevented, they asked, what are we to do? who are to become our heirs, and how are our names to continue?" In fine, they prayed for an exception in their favour. The Governor in Council transmitted this petition for the consideration of the Supreme Government, in the event of any inquiry being in contemplation respecting slavery in India; and in reply to the Collector who forwarded the petition acquainted him, that the Government could not with propriety, at any time, erase the enactment complained of from the code, and at the present time deemed it inexpedient to accede to the prayer of the petition.

The other petition was from the Gosaens of Poonah, representing that they have been from time immemorial permitted to obtain disciples for their religious establishments by purchasing them, when there are failures by natural means. The petition had reference to cases which had been sent up by the Magistrate for trial by the Session Judge of Poonah, wherein some members of the community were charged with criminal acts in having so obtained disciples, some of whom the petitioners had procured in time of famine. They stated that those who are initiated into their order become joint members of the community and derive equal advantages with the rest, often acquiring even wealth. They also pleaded ignorance of the law, which they alleged had not been acted upon, though it had been passed seven years before.

Slavery in India, 1838, p. 527.

The Session Judge expressed his opinion that from the Regulation never having been promulgated excepting by being printed with the rest of the code, and not having been acted upon as affecting these religious orders, the petitioners had really acted in ignorance of the law; and accordingly, with the sanction of the *Sudder Foujdaree Adawlut*, suspended the trial of the case until the orders of Government should be received upon it. Government however declined to interfere; and we see a case reported by the Magistrate of Poonah two months after, probably the same, of certain boys who had been sold to Gosaens of the city of Poonah, and made *Proselytes* by them, in which cases the Gosaens, it was stated, had been punished according to law, and the boys emancipated. The Magistrate requested instructions how to dispose of them, observing, that most of them wished to remain with the Gosaens. The Government decided that none should be allowed to remain in the hands of the Gosaens, but that those who had parents should be returned to them, and the rest otherwise disposed of in a proper manner.

The plea of ignorance of the law set up by the Gosaens, we observe, was urged in another case of slave-dealing, in which a child was sold by her father to a prostitute, tried at Poonah by a different Judge, and was admitted by the Judge as a ground for mitigating his sentence. The following are the Judge's observations on the case. "The sale of the child occurred very nearly four years ago; it is understood that during the late Government, and previously, it was most common to dispose of children in this manner; it is not in evidence, nor is the Court aware, that any proclamation prohibiting the practice has ever issued from the

*p. 556. 1835.
June, 18, 1145,
J. B. Simson.*

magisterial department, and all the prisoners plead ignorance of the regulation, which had been in force scarcely more than a year when the sale took place. That the parties were ignorant of the enactment may also be fairly inferred from the open manner in which the deed of sale was registered by the village Koolkurnee and attested by four witnesses." The Judge took occasion, from this case, to suggest to the Magistrate, that the illegality of the sale of children should be made generally known by proclamation or other mode. Upon this suggestion, the Magistrate (Mr. Baber) remarked " that gross as the ignorance of the people undoubtedly is of our laws in general, he very much doubted whether there is any person living who does not know that the sale of human beings is illegal."

September 12, 1835.

The Judges of the Sudder Foujdaree Adawlut, overruling the principle that ignorance of the regulations might be successfully pleaded in extenuation of the crime of slave-dealing, yet thought it proper to direct, that every publicity possible should be given to the regulation against the practice of buying and selling children, in order that the people might be generally informed, that such a practice would undoubtedly entail a severe punishment. It is probably owing to this measure that the regulation had become so operative as it was considered by the Judges to be in 1836.

When promulgating the new Code of 1827, for the territories subordinate to the presidency of Bombay, the Government of that presidency took occasion to annul Rule, Ordinance, and regulation I. of 1812, before alluded to, as forming the law for the island itself, and to pass another Rule, Ordinance and regulation II. of 1827.

There was in the new Rule a very remarkable alteration under the head of slavery, (title thirteenth) for whilst the first two articles were retained entire and unaltered, the third article, (which we have already quoted) declaring the children born, after a certain date, of slave parents to be eventually if not immediately free, is entirely omitted, its place being supplied by an enactment against abduction of females.

We are at a loss to account for this omission, which is the more remarkable, because all such Rules, ordinances and regulations, being of force only within the presidency itself in the jurisdiction of the Supreme Courts, require to receive the consent of those Courts before they can become law, so that the Judges of the Supreme Court of Bombay must have been cognizant of the omission, and have sanctioned it with a full knowledge of the reasons that led to it.

But notwithstanding the restrictive laws which have been passed at this presidency, slavery continues to exist. The right of one man to coerce the services, to appropriate the acquisitions of another, to sell, to purchase, to bestow, to bequeath, to inherit him, and it may be his offspring, subsists and with it the undefined though understood obligation of affording sufficient maintenance till death. These ancient rights and obligations, subject to the restrictions and conditions imposed by the law of 1827, still exist, and may be enforced in the courts of justice in such manner and degree as may accord with precedents, with the views of the Judge for the time being as to what was ancient law or existing custom, or his notions of what ought to be deemed and taken as good law and custom in these more enlightened days.

Under such a loose system, where the civil and criminal functionaries even of the same locality may entertain widely different views of such undefined rights and obligations, and where these functionaries themselves are in a state of constant fluctuation and change: where, moreover, the notorious bias of the Government and of the dominant and educated class is adverse to slavery, it is easy to understand that the hold of the master on his human chattel must become weaker and weaker, and the entire slave system tend to decay. An examination of the returns in the Appendix will show how rare, indeed almost unheard of, is a suit in the civil courts against a slave or a third party for recovery of services, property or damage by abduction or desertion. Yet almost all the reporting functionaries agree that a slave-owner has a good cause of action in the cases supposed, and possesses rights which cannot be questioned in the abstract, though so difficult of enforcement as not to be worth the attempt in these times. In confirmation of these sentiments, we subjoin the opinion of the Bombay Sudder Foudaree Adawlut, as set forth in two letters lately received, which will be found in the Appendix. The first dated 20th July 1839, is to the effect that no special law for the protection of the slaves under the Bombay presidency was necessary, because no offence, which would be punishable if done against a freeman, is exempted from punishment because done against a slave: that the power of a master to correct his slave has never been admitted by the Bombay Code, and the general practice of the Magistrates has been against it, at the same time that masters are protected against the misconduct of their slaves by the regulations for the punishment of servants.

In the second letter they state, that only three cases are on record of the regulation against slaves having been put in force (and that in one zillah,) and three cases of complaint by slaves against their masters, in one of which the master was fined for putting his slave in the stocks; the other two cases being dismissed for want of proof.

Dated 5th May, 1840.

We abstract some specimens of the varying opinions of the public officers, to illustrate what has been said of the feebleness and uncertainty of the laws which uphold slavery on the Bombay side of India, or, to speak more precisely, of what remains of old law and custom, after the narrowings effected by the changes of 1813, 1819-20 and 1827 above detailed.

NORTHERN PROVINCES—SURAT.

MR. GRANT, ACTING JUDGE AND SESSION JUDGE.—Slaves are of two kinds, Gholams and Halees. Gholams are slaves in all respects; either purchased themselves, or the offspring of the purchased:—the master has a right to possession of their services, persons and property, and by Mahomedan and Hindoo law, even to the exacting of prostitution from females;—servitude complete and binding on children;—may be legally sold, given away and devised,—can acquire no property. Halees are rather bondsmen than slaves; persons or their offspring who have sold their labour for an advance of money, bound to serve the lender and his heirs until they are able to repay the sum. Halees children are bound till the debt be discharged. Halees may acquire property;—cannot be transferred or sold. No records are extant which ascertain or define the rights of masters, the courts and

Appendix XVI.
Surat No.

authorities differing so much.—In his opinion the magistrate is bound to enforce, in both kinds of slavery, by every means short of violence and cruelty, the master's right to possession and personal services, so long as the master fulfils his obligation to feed, clothe, and well-treat.

A master would not be justified in doing any thing to a slave that would be punishable as committed towards any other person, except restraining or confining him;—flagrant ill-usage would be punished and slave manumitted. All others, as well as Mahomedans and Hindoos, may hold slaves.

Appendix XVI.
Surat No.

MR. VIBART, PRINCIPAL COLLECTOR.—Halcees are hereditary bondsmen, and almost the only kind of slave in these districts.—The master's claim is generally founded in expenses incurred in bringing them up from infancy, or for money advanced for marriage expenses;—the individual and his family held in bond until repayment, when they all become free. If one absconds, magistrate is authorized by a letter from Government, 19th April 1822, to apprehend such runaway and return him to his master, provided no ill treatment appears, and if the complaint be laid within 12 months. But a Halce recusant nevertheless, can only be punished, though a slave, as an ordinary servant under Sec. 18, Reg. XII of 1827, by order of Sud-dur Adalat, 13th December, 1830.

Slavery no justification for any wrong-doing. He would not enforce any claim to slave property, person or service, except as between Mussulman or Hindoo.

Lumsden.
Slavery in India, 1838.

The prevailing impression with the natives is that our Government judicially punishes any severe treatment of a slave in the same manner as if he were a freeman, and general feeling of the character of our Government restrains acts of violence towards slaves as well as others. Slaves sometimes run away from their masters, and such cases are brought before the Magistrate. Sometimes the master is to blame, and sometimes the servant. Does not explain what is done by the Magistrate in either case.

Anderson. do.

The property in slaves at present existing, recognized and defined by Hindoo and Mahomedan law. Forbearance as regards domestic slavery guaranteed by sec. 5, Reg. I. 1805.*

Appendix XNI.
Brouch, No. 2.

MR. RICHARDSON, ASSISTANT JUDGE AND SESSION JUDGE.—A master has a right to service of his slave; inherits his property if he die; and may take it when he pleases during life.

Relation of master and slave not considered as constituting a ground for mitigation of punishment in case of personal wrong done by the former to the latter. Master punishable for assaulting slave as any one else. Courts only recognize claims of Mussulmans and Hindoos against Mahomedan and Hindoo respectively, in matter of slavery.

Appendix XVI.
Brouch, No.

MR. KIRKLAND, ACTING SUB-COLLECTOR AND JOINT MAGISTRATE.—The criminal Courts or Magistrates would not recognize a legal right of masters over slaves

with respect to person or property, or enforce such, but would refer parties to civil action of damages for alleged loss of services. A slave may remain only as long as he pleases with his master; the Magistrate will not use force or threat to compel his return.

Relation of master and slave no justification of cruelty or hard usage. If the master molest or maltreat, he will be required to give security for good conduct. The Courts or Magistrates would not give over any slave's property to his master unless proved to be the bona-fide owner.

In town of Broach there are only 62 slaves, 2 males the rest females. In the Purgunnahs no slaves among subjects of the British Government; though there may be a few among thakoors, (chiefs,) and respectable grassias (gentry.)

MR. LE GEY, ACTING JUDGE AND SESSION JUDGE.—No cases on his civil or criminal records, determining or serving to determine civil rights of masters and slaves, nor any record of complaints from either. The same protection is afforded to both. He considers that British subjects and others amenable to Supreme Court cannot hold slaves, but all other persons may.

Appendix XVI.
Ahmedabad, No. 3.

MR. JACKSON, ACTING MAGISTRATE.—In cases of complaint of a criminal nature by slaves against masters, the same measure of justice would be awarded as to any other complainant.

Appendix XVI.
Ahmedabad, No. 14.

No case on record involving civil rights. If any occurred he would be guided by S. 26 Reg. IV 1827, and by the exposition of the law by the Hindoo or Mahomedan law officer as the case might be. In case of a Christian being concerned, he would refer to a higher authority.

MR. STUBBS, MAGISTRATE.—Finds only one case on record in ten years. That of a master keeping a female slave in irons and beating her. He was convicted and sentenced to 6 months' imprisonment.

Appendix XVI.
Kaira, No. 14.

MIDDLE PROVINCES.

MR. W. SIMON, ACTING MAGISTRATE.—Considers the rights of masters over the property of slaves, as absolute: but over their persons and services being qualified, ceasing on duress or ill-treatment; very little allowance being made for the sovereign or paternal character of the master. Caste is of no consideration at all in practice.

Appendix XVI.
Tannah, No. 13.

MR. REMINGTON, ASSISTANT TO COLLECTOR OF TANNAH.—By law and practice, the services of persons sold into slavery, and of their wives and descendants for ever, belong of right to purchaser and his heirs. Cites a recent case in point. The Magistrate delivered over to their owner some slaves (although sepoy* in Honorable Company's service) who were descendants of absconded slaves of a Hindoo Patell who claimed them. A slave's property is derived from and belongs to his master. Slaves are protected equally with other servants (the relative condition of the two differing only in duration of perpetual servitude) against ill treatment

* Probably not regular Sepoys but men enlisted in the Police, or Police peons, who are commonly called sepoy, in the districts under Bombay.

from any one, even their masters. All castes or religions may hold slaves. Parsees did and probably now do hold slaves, and they would find equal favor with the Court as Hindoos and Mussulmans.

ndix XVI.
Tuloodya. No. 17.
Prant Kulyan part
Tannah Collectorate.

MR. COLES, ASSISTANT COLLECTOR.—The persons and properties of slaves belong absolutely to their masters. He would accordingly restore either to a reclaiming owner. He would allow no further power to a master than to any head of a family to keep order. Any ill-usage would be punished as assault under the regulations, and if repeated, security exacted for good behaviour. Any caste may hold slaves.

Appendix XVI.
Nuarajoor, No. 18,
part of Tannah.

MR. DAVIES, ASSISTANT COLLECTOR.—The persons of slaves are the property of masters, only so long as the former choose to obey. But during 19 years of British rule, no case has occurred to try the question of right. Mahomedan and Hindoo masters would rather give up a claim to a slave than come into Court either as plaintiff or defendant with a slave.

But the slave's property is the master's, whether gained by gift or labour. A slave only enjoys the usufruct of it during life; the master lays claim to it in cases of death or alienation, but if emancipated, the slave takes the property, unless otherwise especially provided.

How far the servile relation might be pleaded to mitigate or justify acts otherwise culpable has never yet been tried. No case exists among his records.

Slaves have never yet been registered in these districts. He considers the relation of master and slave to be more analogous to a contract rather than a relation of legal right and obligation. The slaves were originally imported and sold by a caste of traders called Lumman, during native rule, when servile rights and obligations were insisted on; but since the British regime most of the slaves have freed themselves owing to the masters' unwillingness to try their right before any competent authority.

Appendix XVI.
Rutnagerry. No. 19.

MR. GLASS, COLLECTOR AND MAGISTRATE.—Sections 30, 31 and 32, Regulation XIV, of 1827, recognise slavery and the sale of slaves under certain limitations. He finds no complaints on record on either side, and conceives that the Magistrate would only interfere in case of "violent assault," or "unjustifiable treatment." The right to property would follow the law of the master under Regulation IV. of 1827, Sec. 26 and 27.

The Bombay Code makes no difference as to slave or freemen in punishing offences—but he conceives that Magistrates would allow full exercise of authority, and such chastisement as would be permitted to the master of a family. He is aware of no distinctions in the Regulation as to particular castes holding slaves. However none but Hindoos and Mussulmans possess slaves within his jurisdiction.

Appendix XVI.
Rutnagerry, No.

MR. HUNTER, ACTING ASSISTANT JUDGE.—Knows of no cases determining civil or criminal rights or liabilities of masters or slaves.

Mussulmans and Hindoos only can be allowed to hold slaves, and only when these also are either Hindoos or Mussulmans.

MR. SHAW, JUDGE.—No cases appear on his records, civil or criminal, determining rights of masters. But some rights do exist in the “common or unwritten law” of the country, and as Magistrate he has formerly given up claimed runaways, male and female, taking precautions against “undue severity,” and referring the parties to civil court, if dissatisfied with his decision as Magistrate. By unwritten law he means to express, that the laws regarding slaves have accommodated themselves to the feelings of the present Government in a great measure, though founded originally in the now impracticable rules of the Koran and Shaster, to which present practice has still some reference, though no written code perhaps is now held in strict and general obedience.

Appendix XVI.
Concan—Tannah No. 14.

Slavery being recognized, but the old codes rejected, circumstances and custom are the rules of decision, and apply equally to Christians, as Mussulmans or Hindoos.

Saving the rights recognized by custom of masters over person and property of slaves, and also some small latitude of correction allowed the master, a slave enters Court on equal terms with another.

DECCAN OR SOUTHERN PROVINCES.

MR. BELL, JUDGE.—Considers the law of master and apprentice as most applicable to the present relations of master and slave—slavery being mild and entirely domestic. Full protection is afforded against all except the master; all castes may alike hold slaves. R. IV. S. 26, 1827.

Appendix XVI.
Poona, No. 6.

MR. PITT, ASSISTANT JUDGE.—Finds no cases on any of the records since 1823, when the Courts were established.

Sholapore (Poona) No. 7.

MR. LUARD, SUB COLLECTOR.—There are no records of any cases to determine rights. Slavery may be said not to exist under the British regime.

Sholapore (Poona) No. 25.

MR. MILLS, PRINCIPAL COLLECTOR.—No case has ever occurred before him to bring the legal rights of master and slave into discussion. If any should arise he would refer to the law officers and then decide by general principles of justice and equity. He would protect slaves against harsh and severe measures, but recognizes the master's right to exact duties consistent with the maintenance of domestic authority, and with the caste and religion of parties; saving this, would give full protection to slave.

Poona No. 20.

MR. G. MALCOLM, ASSISTANT COLLECTOR.—Knows of no cases or precedents on slave questions. He considers slavery under the Bombay Presidency only nominal, and that a slave's remaining with his master, depends on his own free will. If a run-away case were brought before him he would search for and bring up the slave, would enquire into the causes of his absconding and nature of his treatment, and probably persuade, but not certainly force him to return. He would consider a master justifiable in fatherly correction of a slave boy; but would not otherwise make any allowance for the relation of master and slave.

Appendix XVI.
Poona No. 23.

A slave has no right to any other return for his services than food and raiment. The Courts would not regard the caste of a defendant in any suit for the property of a slave.

Appendix XVI.
Poona No. 23.

MR. MALET, ASSISTANT COLLECTOR.—Is aware of no cases to assist him in determining the question of right. He would take the opinions of the law officers of the caste, if any case occurred, and also those of persons conversant in the usages of the sect. He sees no reason for making any difference between a master's ill using a slave or any other person. He would not feel himself officially bound to enforce or admit any claim to property, possession or services by a master ; but would only endeavour to persuade the parties to abide by the usages of their caste, as explained by persons acquainted with its customs.

Appendix XVI.
Kasba Indapore, No. 24.

MR. GOLDSMID, ASSISTANT COLLECTOR.—Has no cases on record, but would afford to a slave ill used the same redress against his master as against any other parties ; but if the master had thought his relation really gave the right to ill treat his slave, Mr. Goldsmid would mitigate the punishment for the first offence. If any one of whatever sect or caste laid claim to person, property, or services of another, he would refer such claim to his superiors, before deciding.

Appendix XVI.
Ahmednuggur, No. 9.

MR. HUTT, ACTING JUDGE.—It is difficult to ascertain the rights of master and slave. In civil courts, the usages of the country or lawful customs of the parties must be considered, and in criminal also : save the few cases falling under Reg. XIV. of 1827, S. 30. 31. and 32. No case of rights has occurred in his time, civil or criminal, and the records shew only such as come under the above quoted sections. But slavery exists to a great extent in this country. Few Mussulmans or Hindoos who can afford it that have not slaves ; and the absence of complaints and cases proves either the mild character of the slavery or the excessive ignorance of the people as to their rights and the disposition of the British Government and Laws ; or both most probably. Usage and Mussulman and Hindu laws give the master full power over the slave's property and over himself by loan, gift, or devise, a mode of transfer not noticed or guarded against in the Regulations. He would admit the right of correction, as of a father or school-master, which is also the custom of the country and the rule of Mussulman and Hindoo laws, and which, indeed follows the recognized rights of property in the person of the slave. As the heinousness of offences depends in some measure on the moral and religious feelings of the culprit's class, Mr. Hutt would consider cases " not of very aggravated nature entitled to exemption or mitigation of punishment. All not immediately bound by English law could claim redress against their slaves."

Appendix XVI.
Kandish, No. 10.
(Ahmednuggur.)

MR. BIRDWOOD, ASSISTANT JUDGE.—The right of a master to the slave's person and services from the very nature of slavery being admitted, he is in course entitled to the slave's property also. These rights are recognized so long as the master feeds, clothes and treats well, his slave. No case has come before the civil Court to enable him to speak more fully. The Magistrate does not recognize the relation of master and slave as justifying ill treatment, and were such complained of, the Magistrate would set free the slave altogether. The Kusbeens or Bawds are the chief purchasers of female children.

Slavery being recognized by the Regulations, under defined restrictions, the Magistrate must admit claims without regard to caste.

MR. HARRISON, MAGISTRATE.—No cases enable him to determine as to rights. They continue to be exercised as heretofore without enquiry or interference. As to persons of other castes than Hindoo or Mussulmans holding slaves, he would refer every question upon this point to the Judges of the Sudder Adwalut.

Appendix XVI.
Ahmednagar No.

MR. BOYD, COLLECTOR.—Slaves acquired lawfully before 1827 are subject to the usages of the country previously in force in respect to their master's rights of selling them and profiting by their labour. The Courts would sustain actions for recovery of slaves or their value unless in the case of proved ill usage—such would warrant emancipation of the slave, or dismissal of the case. The property of slaves dying, went to their master, but during life was never taken away, save for misconduct. But when a man belongs himself to another man, his right to hold property is an empty privilege. Since 1827, no slave can be sold but with the sanction of a magistrate, which will be so rarely asked, that he considers the Code of 1827 calculated to effect the total suppression of slavery, when taken in connexion with the well known feelings of the English Government on that question. He knows of only one application to buy since 1827, but knows of many manumissions for irregular sale. He considers the master as having a right to a reasonable portion of labour and that he may chastise as a father: but exceeding this, he may be punished as any one else. He would only listen to slave-claims of Moosulman, Hindoo, and of native born Jews and Christians; “no European could, of course, possess a slave” He knows only of 3 complaints of ill usage in 6 years.

Appendix XVI.
Kandesh, No. 37.

MR. LARKEN, ASSISTANT COLLECTOR.—Since 1827 slave sales have been very rare and hazardous. Female slaves more numerous than males. No respectable man will sell his slave. A complaint of ill usage from male or female is “of the very rarest occurrence.”

Appendix XVI.
Kandesh, No. 38.

MR. SIMON, JUDGE.—Unless when compelled by the Regulations, there is less and less disposition in the British authorities to listen to rights of slave holders which would have been admitted by the previous rulers of these countries. No court would ever deliver over a slave, especially a female, to a claimant who ill used her. Yet some right of property in the person of the slave exists beyond doubt, and it is highly expedient that it should be recognized for the present. For how could we support otherwise the reciprocal obligation of maintaining the helpless slave in age, sickness and famine, when the master could be absolved, and the suffering slave abandoned, but on the ground and claim of previous servitude. Nominal emancipation would be a serious injury to many. setting up theory at the expense of practical benefit, is as grasping the shadow to lose the substance. He would view leniently a master's moderate assault for remissness; but by no means would allow of cruelty or hard usage, and in case of either, he would in a civil action think himself justified in reducing the damages from a runaway bondsman to a very diminutive sum. He would consider a slave when a party in court as “in all respects a freeman” save where his own acts had rendered him amenable to his master in purse or person.

Dharwar, No.

“Slaves retain entire their civil rights except where they have mortgaged them in part to their immediate masters.” He considers all castes on a level as to the right of holding slaves, and would recognize claims from all, admitting and en-

forcing these where the person claimed had bound himself in a manner an apprentice for value received, and the claimant had faithfully abided by his part of the engagement.

Dharwar. No. 29.

MR. DUNLOP, PRINCIPAL COLLECTOR.—Only two slave cases within his experience have been brought before the magistrate. One, of certain girls purchased by dancing women before the province became British, so that no punishment could follow. The girls were set at liberty, of which however it is probable they did not avail themselves. The other case was an illegal sale of a girl for prostitution—all the parties, ten in number, were convicted and more or less punished. Runaway cases occur not unfrequently among domestic slaves. They are not compelled to return, but are usually reconciled and pacified.

III.—ACTUAL STATE OF SLAVERY.

It is when reporting on the actual state of slavery and the condition of the slaves under a distant Presidency, that we feel most strongly the absence of personal and local enquiry, the insufficiency of mere written opinions from a single class,—the public functionaries, and the deficiency of minute information in the only evidence of this description available to us.

On the details of slave treatment with reference to age, sickness, health, infancy, youth, marriage, pregnancy, concubinage, sale and separation of families, food, lodging, raiment, labour, punishment, valuations, &c. &c., on these points so essential to a due understanding of the slave's real condition in relation to his master, we have little information to help us towards describing things as they are.

Of the papers already described to which we have resorted for information, we shall under this head refer chiefly to the reports from 1819 to 1822 of Commissioners Elphinstone and Chaplin, and their subordinates, upon the Deccan districts, and to the answers to the queries of the Commission which were received in 1836: the former may be considered as giving a general review of the state of slavery as it was when the country had just passed under the rule of the British Government from that of the Peishwa, while the latter may be taken to exhibit the effect produced by British rule and intercourse during the interval from 1819 to 1836; the conclusion deducible from this juxtaposition and comparison of periods is satisfactory. The area, it is true, covered by the Deccan reports is only a portion (about one half) of that comprehended in the returns of 1836. But after perusal of the whole we are of opinion, that the progress of social improvement in the Northern and Middle Provinces has been considerable as well as in the South; and that slavery is daily becoming milder, and is in fact tending gradually to extinction.

We proceed to extract from the several documents in question the substance of the opinions and facts which they contain.

1819—22. Private Debtors are seldom put in prison, and it is only in rare cases, and when such condition may have been expressed in the Bond that they are made to serve their creditors till the amount of nominal wages earned equals the original debt.

The lower classes often paid, by labour, debts which they had no other means of discharging.

Debtors who gave bond so to do, obliged to serve their creditors. Debtors' families frequently kept as hostages for debts.

p. 218, a
Captain Grant.
Sutrarah, p. 229.

Debtors obliged to serve their creditors. In extreme cases children and families kept as "hostages." Parents had a right to sell children under age.

Captain Briggs.
Kandish 2 p. 249.
p. 255.

From debtors of low degree unable to pay, personal services sometimes exacted--the creditor subsisting his bondsman the while; children and families sometimes taken as hostages, but not frequently.

Mr. Chaplin.
Dharwar, or Southern
Mahratta, p. 260.

Debtors sometimes obliged to serve their creditors, the usage not confined to a particular class. The creditor receives half the wages stipulated as the equivalent for debtor's labour. Parent's authority over children very absolute, even to sell them: the Government would not interfere for any act of a parent towards his child; guardians, husbands, heads of families had the same power as parents.

Captain Pottinger.
Ahmednugger, p. 298.

Domestic slavery in the Deccan requires regulating by some legal sanction, to prevent oppression and check the traffic. It would be injustice to interfere, as far as prohibition of sale, to the injury of private property in a hitherto marketable commodity. Slavery in the Deccan is very prevalent; it is recognized by Hindoo laws and by custom time immemorial. But it is a very mild and mitigated sort of servitude, rather than absolute slavery, and differs essentially in many particulars from the foreign slave trade now discontinued by British subjects. Slaves are treated by Hindus with great indulgence; rather as hereditary servants than menials, domesticated in the houses of the upper classes; are treated with affection and allowed to intermarry with female slaves; the offspring, though deemed base-born, if males are often considered free; if females remain slaves. Marriage almost amounts to emancipation, as a married slave is rather an incumbrance. Many respectable Brahmins have one or more slave-girls as servants. In a Mahomedan house-hold of any consequence they are indispensable. A female slave is called a Loundee; her offspring by a Brahmin, Sindee; these do not acquire the character of pure Maharatta blood till the second generation, though they call themselves such; a Loundee's child by a Maharatta takes the father's family name; but the stain of blood is not wiped out till three generations. A slave girl could not quit her master without consent, but he is obliged to feed and clothe her, and provide for the children she might bear him. He might chastise moderately, but if death ensued, might be severely punished by fine or otherwise at pleasure of the Government. He could sell his slave; but this was not thought reputable among the upper classes. Maharatta adultresses were sometimes condemned to slavery. Debtors sometimes become slaves to creditors. But most slaves have been sold as children in famines, to save their own lives and keep their parents from starvation. Of late years many such have been imported in this way; beyond doubt scarcities are alleviated by thus disposing of starving offspring; but the evil arose thence of kidnapping them to sell in distant countries, a common practice with Lumans and Brinjarahs. This may be stopped by prohibiting all sales of children unless the mode of procuring such slave have been satisfactorily explained to the

Mr. Chaplin's Report
in the Deccan, for 1822.
Selections, vol. 4, p. 303

Judicial Selections, vol
4, p. 501.

local authorities. Mr. Chaplin doubts the policy of entirely prohibiting the traffic, and quotes Mr. Thackeray, his successor in charge of the Southern Maharatta Division, or Dharwar, who says funds must first be provided for relieving starving children. Mr. Chaplin quotes all his Collectors as concurring that it is contrary to usage to emancipate the slaves, and that they doubt of its being acceptable to the present slaves, while they think it would be certainly "unpopular among the people." The sale of slaves now stands prohibited by order of Government of 18th December 1819: but this has increased the price without putting a stop to the traffic."

As Mr. Chaplin's Report is much in the nature of a compilation out of those rendered to him by his subordinates, we shall compress the least and only give a few prominent facts or opinions.

Capt. H. D. Robertson,
Bombay, p. 589

Slavery is entirely domestic, originating in sales by parents or kidnappings by thieves. Few slaves know their connexions. A debtor is lawfully a slave to his creditor, but this is rarely enforced—save by Brahmins against Koonbee Ryots. Public feeling makes this a dead letter. He knows of only three instances and they occurred in the late Paishwa's time. Slaves are well treated. No cruelty. Public opinion being against it, Captain Robertson has himself caused cruelly treated and over worked slaves to be emancipated.

p. 589.

Slaves are chiefly of the Koonbee and Dhungur castes. Males are not unfrequently manumitted on attaining manhood; females never, and the children of those are slaves also. To abolish slavery or emancipate by a law would be unpopular. The relief to one famishing Province by the sale of its starving children to another district more fortunate, greatly counterbalances the loss of freedom under a system of slavery so light. A female slave growing up from childhood knows not what freedom is, attaches herself to a family or some member of it, and would derive more pain than pleasure from being set free. Instances have come to his knowledge of manumission refused by a slave, even when preferring complaints of ill usage against one member of a family:—the fear was strong of being turned adrift to live by her own exertions.

Slavery in India, p. 160.

In a later report we find it stated by this officer, that it is considered by masters, and is also consonant with the general sense of the community, in opposition both to common reason and the natural liberty of man, that if an adequate price is offered by a slave, or by any person for his emancipation, it is not incumbent on the master to accept it, or to take any sum short of that he may voluntarily demand.

Grant Duff, Sattarah.
'Indra's' Selections, vol.
4, p. 170

The Sattarah district in the political settlement at the close of the war in 1817-19, became the apanage of the liberated Ram Rajah, the successor of Sewajee and chief of the Mahrattas, but whose office had long been reduced to a nominal sovereignty by the usurpations of the Paishwa.—Sattara for a number of years after the peace, was administered as one of the divisions under the Deccan Commission; but has since been handed over to the Government of the Rajah on attaining his majority. It is no longer strictly speaking within the purview of this Report, but as the customs and laws of the people assimilate to those of the other Mahrattas, we have thought it well to notice any remarkable points in the Report of Captain Grant to Mr. Chaplin for 1822.

Domestic slavery is considerable. Males when grown up or born of slave mothers are often turned away to provide for themselves after marrying, as they become a burden—Girls cannot be liberated. Almost every respectable Brahmin has one or more slave girls as servants; and a Mahratta is not respectable without them. In general treated with kindness.

A tax of 12½ per cent of the value is levied on the sale of slaves by private bargain. No famines have occurred of late, therefore the import of slaves is slack, and depends solely on kidnapping. This may be remedied without outraging the feelings of the country on the delicate subject of domestic slavery, by making every seller give strict account how he came by a child before it is allowed to be sold. Mahratta women become Loundees by adultery with inferior castes. A Loundee's child by a Brahmin is called a Sindeca and requires three generations to purify the blood.

Slavery depends much on the state of the neighbouring districts. In the famine of fuslec 1229, from 150 to 200 were imported. Slavery is adopted and recognized every where. Slaves are bought from Brinjarahs and others as children. If they turn out well, they are adopted and treated well by the upper classes. If they prove vicious they are turned off. The lower classes treat them equally well with their domestics or children, but not unfrequently sell them again. Some times these marry their slave women, but the offspring continues impure until 3rd generation. Children born of slaves however are not considered slaves. It would be inconsistent with usage to emancipate purchased children on attaining majority, when their services are beginning to compensate those who purchased them in infancy.

Besides children bought from parents or kidnapped, a very numerous class of slaves voluntarily follow Brinjarahs to preserve life in famines, on stipulated agreement to be sold to offering purchasers. Some are bought when young by dancing masters to be brought up to that profession, and all become prostitutes. Slavery is not very prevalent—it is chiefly in large towns. The chief slave owners are Brahmins, Mussulmans, and some Patails and a few only of the Koonbees (cultivators.) The price used to range from 500 to 25 Rs. according to the circumstances of the moment or recommendatory qualities of the subject. Females were always dearest, in proportion to good looks and youth. These are usually not only servants of the family but also concubines of the master. Where male and female slaves were kept and allowed to intermarry, the offspring are not slaves. Slavery is fully recognized by local usage: there is no foreign slavery such as that in Europe, but slaves of all ages and sexes have been brought from foreign territories and sold, and perhaps also similarly exported, but it does not form a source of trade. No rules are requisite for checking sales of children in famine (if allowed) except giving a discretion to the civil authority under particular circumstances to emancipate any who apply. In 1819, a number of all ages and sexes of grown slaves brought voluntarily from Nizam's country when famine prevailed by Brinjarahs. On arriving and finding support as hired labourers, they then refused to be sold and complained of having been used as coolies. It was notified that all who purchased these must do so at their

Briggs, Candesh
710.

Pottinger, Almurud
p. 761.

own risk of loss, as such traffic could not be countenanced, nor run aways restored. On this the Brinjarahs let them all go as none would purchase them. So at Nassick : many children were brought for sale ; Mr. Wilkins was instructed to forbid the sale and the children were put out to respectable land-holders promising to feed, clothe and treat them humanely, and they were to be free where they pleased. Since then few applications have been heard of concerning slaves. Slavery is falling into disuse ; the people assuming the British Government to view it with disfavor. This notion and the want of any great inclination to keep slaves has sufficed to check the practice without formal prohibition. The only complaints of late have been from Naikcens or female chiefs of dancing establishments from whom girls eloped. In these Captain Pottinger was guided by circumstances : if the lover was willing to pay the original price paid by the Naikcen, the arrangement was sanctioned : or even if the girl shewed that she had earned more for the mistress than all she ever cost her, no steps were taken to compel her to return to service. The system thus followed in regard to slavery ensures the best treatment, though this advantage is but negative, in as much as slaves appear always to have been cherished rather as members of families. It would not be consistent with usage to emancipate a young slave on attaining majority.

The people know our sentiments and soon there will be no slaves. No purchases are to be heard of now, save by some of the Naikcens or a rich Brahmin ; and in both cases it is confined to females. Such girls may be considered fortunate, if we except the morality of their lives, as they are sure to be well fed and treated with the utmost kindness.

Judicial Selections,
vol. 4, p. 772.

A tax is levied in this district among other *Thulmore* (or duties on imports) called Nukkas on the sale of living things, men as well as cattle ; its object was alleged to be that of preventing disputes and roguery by the publicity it gave to the transactions.

Appendix XVI.
Thackeray, Dharwar,
p. 406.
Southern Mahratta
country.

Slavery is not very common in this country and it is very mild—formerly, it was very uncommon, but increased in the late Paishwa's time : slaves may be emancipated : women committing fornication or theft were sometimes made slaves either of the state, or of private persons to whom they were sold. In famines, female children were sometimes sold by their parents ; this practice prevails much north of Meritch. Slaves could not leave their masters without consent, and could be sold to any one. The master was obliged to feed and clothe any children he had by a slave, and also to perform their marriage ceremonies ; the sons of slave girls became domestics, the girls, if not married, slaves or prostitutes. A son was heir to the mother, and failing him, the master, excepting always property acquired by prostitution, which the mother might bequeath to her daughter. "A master was allowed to beat his slave and her son if they did not conduct themselves with propriety, but was fined heavily if death ensued from his maltreatment. Slavery is recognized by Mahomedan and Hindoo law and by the custom of the country. The toleration of it saves many lives during famine, and does not appear to shake the affection of parents or encourage oppression. Bondsmen here are rather hereditary servants than slaves, and he doubts whether they would feel grateful for a law which should

emancipate them. By restrictions of slavery we raise its price, and with it, the price of life in a famine. If Government should abolish it, they should provide a fund for starving children." Slaves are very seldom imported; most of the few in the Doab were either born slaves or sold in famine. The usages were the same as to foreign or native slaves, the Mahratta Government never interfered. Parties made their own arrangements in communication with the heads of villages. A child sold and having partaken of food with her purchaser, if of lower caste than the seller, becomes irredeemable. "It has happened, that Johallies (who usually suffer most in times of scarcity) have repurchased their children after having sold them 5 or 6 years. If married, the child could not be restored to the caste in which it was born."

The above report was noticed, in 1825, by Mr. Baber who succeeded Mr. Thackeray as Principal Collector of the Southern Mahratta country, with the observation that it referred rather to what the practice had been during the late Government, than to what it then was.

Mr. Baber himself reported, at the same time, as follows; "There are a few persons who are held in a state of bondage, but they may be considered more in the light of hired domestics than as absolute slaves. These may be formed into three classes; 1st. those who were deprived of their personal freedom as a penalty for crimes, and acts whereby they forfeited their castes, during the late Government; 2d, those who were born in their master's houses, or purchased of their parents in time of famine and scarcity; and 3d, those who subjected themselves to voluntary slavery for life or a limited period in liquidation of debts. There are no returns of the number of these several descriptions of slaves, but from enquiry and observation I should not suppose that the aggregate exceeded a few hundred in the Company's part of the Doab. They are more numerous in the territories of the Colapore Rajah and of the Jaghiredars, but chiefly confined to the houses of those chieftains and of their dependants under the designation of Scindya Battakee. The same gentleman in his answers to the queries of the Board of Control, printed in the Appendix to the report of the Select Committee of the House of Commons 1832, stated that in the Doab, or Southern Mahratta country, including Kolapore, the number of domestic slaves was computed at 15,000, rather more than three quarters per cent. reckoning the population at about 2,000,000. All Jaghiredars, Deshwars, Zemindars, Principal Brahmins and Soucars, he said, retained slaves on their domestic establishments.

Slavery in India, 1838
p. 437.

No. I. Public.

In fact in every Mahratta household of consequence, they are, both male and female, especially the latter, to be found, and are in fact considered indispensable.

In all the countries enumerated by him, comprising the western provinces south of the Kishna and on the Malabar Coast to Cape Comorin, the varieties and sources of domestic slavery, he stated, are very numerous, namely, the offspring and descendants of free persons captured during war, outcast Hindoos who had been sold into slavery under or by former Governments kidnapped persons brought by Brinjarrahs, and other travelling merchants from distant inland states and sold into slavery; persons imported from the ports in the Persian Gulph and Red Sea, or from the African Coast; persons sold when children by their own parents in times

Baber. Letter B. para.
1, Answers.

offamine or great dearth ; the offspring of illegitimate connexions, that is, of cohabitation between low caste Hindoo men and Brahmin women, and generally between Hindoos of different castes, or within the prohibited degrees of kindred ; persons who in consideration of a sum of money or discharge of security for the payment of a debt, have bound themselves by a voluntary contract to servitude either for life or a limited period ; all which have in former times or do now prevail more or less wherever domestic slavery is found, but chiefly in the Southern Mahratta country both in the Company's and the Jahgir portions of it, and in the Kolapoor Rajah's dominions ; also in those of Koorg and Mysore.

Baber, letter B. para.
2, Answers.

With regard to Mr. Baber's testimony touching domestic slavery, which does still greatly prevail though in a mild form, that gentleman's description of the classes and varieties composing the slave population corresponds almost exactly with the like details in the Deccan reports, and is in turn, corroborated by the Bombay returns of 1836.

Appendix XVI.
Bombay Sudder Adaw-
lut, Returns, 1, to 29.

We proceed to give from the late returns a brief analysis of the mass, so as to bring together certain points of treatment upon which all are agreed, and certain other points in which the majority acquiesce ; subjoining abstracts of the contents of a few separately, which appear to require distinct attention, whether from singularities in matter or greater copiousness of detail.

I. All the returns agree upon the following points.

1. That the master is bound by usage at least to supply " sufficient maintenance," by which all seem to understand, customary food, raiment and lodging for life during sickness or health."

2. That the master advances in like manner marriage—and other ritual expenses, which in the case of debtor-bondsmen, become added to the amount of original debt which has to be worked out.

3. That the master is now obliged to treat his slaves well, so far as not to overtask their powers beyond reason and custom.

4. That the master is bound to abstain from all cruelty, and from severity of correction beyond the parental or apprentice limit, on pain of punishment by the Magistrate, as if he assaulted a freeman, or of liberation to the slave, or both, in extreme cases.

5. The complaints of ill usage are very rare, few such having ever come to the knowledge of local officers—Equally rare are actions for damages or reclamations civil or criminal, whether on the part of masters or slaves, although the leaning of the Government and its officers against slavery is generally known.

6. That full legal recognition and consequent protection are afforded to the slave as to any freeman in respect of any other party than the master.

7. That the steady disfavor with which the British Government and Public are known to view the system of slavery, co-operating with the Regulation of 1827, a marked effect has been, and continues to be produced by both together, tending to the gradual extinction of slavery.

To these points of general agreement may perhaps be added, that such of the returns as allude to European Colonial slavery distinctly assert, that the mild servitude of the Bombay Provinces has few or no features of resemblance in common with that of the Americas.

II. On the following points most of the returns are agreed.

1. That domestic slavery, particularly that of females, is very general, in families of respectable degree, who have hardly any other servants for the interior of their establishments, particularly among the higher Mahrattas.

Appendix XVI.
Dunlop Dharwar
Return No.
Hutt Ahmednagar.

2. That the treatment of these domestics is generally humane, often producing a considerable degree of mutual attachment.

3. That it is not deemed respectable to sell a slave, or to come into Court to try questions of any kind with one.

4. That sales of girls to procuresses, and of both sexes for dancing and music sets, the chief slave Market under the Old Government, have much diminished, especially since Regulation XIV of 1827, which renders such sales and purchases highly penal.

Appendix VVI.
Larkin Kandish No.
29.

5. That runaways are not forced by the authorities to return to their masters, although frequently through the mediation of the Magistrate reconciled, the master urged by his wish to retain useful services, the slave by fear of losing a refuge in age or sickness.

6. That the transfer of children by their parents in times of famine for trifling prices paid, or for mere food to save their lives, recognized under limitations by the slave law of 1827, has prevailed in seasons of dearth, frequent in Western India, and that it is questionable whether the practice ought to be stopped, if that were possible.

7. That the relation now subsisting between master and slave may be considered as closely approaching that of master and apprentice or servant, or even that of parent and child in respect of power and coercion.

8. That slaves purchased, or born such, as distinguished from debtor-bondsmen, can hold no property but by sufferance of their owners.

III. The following extracts are taken singly from some of the most prominent of the returns.

Mr. Grant, speaking of the Halees or agricultural debtor bondsmen, of Surat, says that the master is bound to give them a piece of ground to cultivate on their own account.

Appendix XVI.
Grant Surat Return
No. 1.

Some slaves are allowed as an indulgence to work at handicraft on their own account, to amass property and so pay for manumission.

Remington (Concan.)

Mr. Vibart, another of the few, who also touches on field-slavery, says that almost the only slaves in "these districts" are Halees "hereditary predial bonds-

Vibart Surat No. 12.

men." Probably he does not mean to include the city of Surat, an ancient and large Mussulman town and port, which we must suppose to swarm with domestic slaves or Gholams.

Appendix XVI.
Nusrapore No. 11.

Since the British Rule the greater number of slaves have emancipated themselves without opposition from their masters who shun appearing in courts in such cases. Mr. Davies considers the servile relation as if a mere implied temporary contract which cannot be enforced, admitting of no legal right on the part of the master, nor obligation on the slave. But this view of the relation is considered somewhat too lax by Mr. Simson the superior of Mr. Davies. Yet he also considers the real power of the master limited to the absolute possession of the slave's property; but very qualified over person or services. Mr. Davies goes on to state that transfer or alienation of slaves by a master is rare: the descendants of slaves originally purchased are found still to remain in the families of the original purchasers, and are evidently well treated.

In Kygur Talook, 75.
slaves chiefly Africans,
in Rajpooora district,
18 slaves.
Bauksee,..... 28.
In Talooka Salsette
and Oorun,..... 32.
Appendix. Report Se-
lect Committee, House of
Commons, 1832, p. 42.

Mr. Davies's return is one of the very few which even touches on the statistics of slavery. He gives the total slaves in his districts at 153 out of a population of 200,000, or about 1 slave to 1,307 free, a ratio so singularly low as to induce doubts of its accuracy. Mr. Baber's estimate of these proportions in the Doab is $\frac{1}{4}$ per cent. and greatly as this exceeds the proportion stated for the part of North Konkan in which Mr. Davies was employed, even Mr. Baber's is of small amount compared with the slave ratio in Assam and several other older provinces under the Bengal and Madras presidencies.

Appendix XVI.
Broach No. 13.

Mr. Kirkland's statement for Broach gives a ratio of slaves to free about thrice as great as Mr. Davies's, yet insignificant in positive amount, namely 60, (of whom only 2 males) for the city of Broach; that is, assuming the population of the town to be only 32,000 as in 1812, about 1 slave to 515 free, or not $\frac{1}{4}$ per cent. This statement is said not to include the adjacent Purgunna, in which there are no slaves held by natives under British rule, and only a very few by the Thakoors of Ahmudo, and Khurwarra and other respectable Grassias (land-holders,) yet it is difficult to account for so small a number as 60 domestic slaves in a town census of a considerable place like Broach.

Appendix XVI.
Poona No. 7.

MR. BELL.—Conceives from personal observation and experience the clamour elsewhere raised, whether well founded or not against slavery in other parts of the World, not to apply "in the slightest degree to the state of persons so designated in this country, either within the British Territories or those of other powers." They form part of the family and are treated with the greatest possible kindness.

"This proceeds not from selfish notions, but if it did, that very circumstance ought certainly to be considered as the strongest guarantee of protection to what is termed the enslaved party." Under the above view of the case the law of master and apprentice may be considered the most applicable in all its bearings.

Appendix XVI.
Poona No. 7.

MR. PITT.—"Perhaps in no civilized country has there been so small a portion of slaves as in India." No part of the field labor is carried on by slaves, though they are made use of for domestic purposes, yet the number of persons is very limited in proportion to population. The soil in the country is cultivated by a caste both

numerous and respectable, and it is the system of caste which is one of the causes of exemption, and also slaves being usually prisoners of war, and the Hindoo caste of cultivators being of a sacred order, therefore they could not possibly associate, and hence those prisoners were not detained as slaves.'

We have here given Mr. Pitt's evidence regarding Sholapoor slavery (Poonah Division) complete and verbatim, because he declares field slavery to be unknown in his district, and for reasons which he discerns in the difference of caste between the mass of cultivators and slaves brought from without. By the mass of cultivators we presume, he means the Koonbees (or Mahratta cultivators) yet we do not observe that other authorities consider them as a "sacred order." It does not very clearly appear whether the same objection exists against "detaining prisoners of war as slaves" for domestic purposes; but the natural inference seems, that the difference of caste should operate against domesticating the impure servant, even more than against his association in field labors.

MR. BOYD.—Domestic slaves are costly and will rarely be purchased now, as all the inhabitants of rank and wealth are aware of the British opinions regarding slavery.

Kandesh No. 27.

MR. LARKEN.—Sales of slaves are rare since 1827. The great majority are females, purchased as children, brought up in the family, and treated as humble relations.

Appendix XVI.
Kandesh.

Their condition is not to be lamented; they are in fact better off than free citizens of many other states; the slave is found in almost every instance to cling to a decayed family, though he might profit by the fallen fortunes of the master to go free; instead of which he continues faithfully to serve, not only from gratitude but from the feeling, that "his affection and home are theirs." The feeling is reciprocal; no respectable person ever sells a slave. As the slave girls purchased grow up, there is no doubt, that personal attractions are not without effect in saving them from the more laborious parts of household drudgery. Whether this be an enviable condition or not depends on circumstances.

The abominable slavery of male and female dancing sets, is very different. They were usually recruited, anterior to our rule, by purchases of children, and this class of performers furnished an ever ready market to the slave dealer. But since our time the practice has obviously decreased, being absolutely illegal, and as this is now generally well known, the abominable traffic will rapidly cease altogether.

MR. SIMSON.—Considers compulsory slavery virtually at an end; persons enslaved as children are only voluntary servants because illegally enslaved: he would not recognize any right of a master to exceed the power he might exercise over a voluntary bondsman.

Appendix XVI.
Dharwar, No. 11.

MR. DUNLOP.—There is much domestic slavery in respectable families in his division, as also among the Jaghirdars and petty states under the Political Agent. The Mahrattas have hardly any other servants. They are chiefly female domestics performing household drudgery, such as fetching water, plastering floors and walls.

Dharwar, No. 29.

with cowlung, cleaning the house, grinding the corn &c. "It has not unfrequently happened that these persons have fled from their owners (or more properly masters) generally in consequence of real or fancied ill treatment." They have not been forced back but reconciled by mediation. The progeny usually continue nominally slaves, but really the most trust worthy and well treated of dependants. Under our laws and known sentiments, he is of opinion that any treatment severe enough to make slaves forego the benefits of their situation and break the other ties that bind them to their master's service, would be followed by desertion. Against this the master has no remedy, as service cannot be compelled. The old sources from which slaves used to be obtained are now entirely closed up, and the class of domestic slaves must die out with the present generation.

ARABIAN AND AFRICAN SLAVE TRADE.

We proceed to consider the Arabian and African Slave Trade with India, upon which subject we have found pretty full information in the collection of papers printed by order of the House of Commons in 1838.

To India and Arabia, as to many other parts of the world, Africa has long been the great source of supply for foreign labor; the hive from which slaves have been driven forth in swarms and exported to distant countries for the benefit of others. Of those carried away to India and Eastern countries, the greater part are employed as domestics, hardly ever, it would seem, as agriculturists, and the chief species of hard work in which they appear to be engaged, is on board ships, and in the fisheries, where they work in common with the freemen, and even with their masters. Even those so employed are found to rise to command and trust; while the domestics in families appear to be generally well treated, often with favor.

Slavery in India, 1838,
p. 89.

Ibid.

The Eastern Coast of Africa, from Delagoa Bay to Mussowa and Suakim, is of course, that which has supplied slaves to the Red Sea, Arabia, Persia and India, besides those which were heretofore, if they are not still, sent to the French Islands, and besides numbers which are no doubt to this day supplied to North and South America and the West Indies.

The port of Muscat appears to have been the principal mart into which the slaves carried from the East African Ports were imported and thence passed on to the Arabian and the Persian Ports and to the North West of India. With a view to prevent this importation of slaves, the Bombay Government in 1831, placed the Katiawar and Cutch Coasts under Naval Surveillance, and we observe from a despatch of Commodore Brucks, that the Portuguese Settlement of Diu, Porebunder, and Mangalore in Katiawar, were then the principal ports of import whence the slaves were distributed.*

* This measure was repeated by the Bombay Government, at the close of 1835, in regard to the Coast of Kutch and Katiawar, on the occasion of the detention at Porebunder of seventy-four slaves taken out of vessels from the Persian gulf to which we have elsewhere alluded.—(*Slavery in India papers*, 1838, page 120.) But the order was in January 1836, cancelled for the present, in consequence of the opinion of the Advocate General, that the Government could not legally detain vessels having on board slaves, not belonging to British Subjects or Residents in British Territory.—(*Ibid.* p. 105.)

We proceed to notice, what has been effected by negotiation with the neighbouring Mahomedan powers for the suppression of the importation of slaves by sea on the Western side of India. No treaty or agreement on the subject of the slave trade or slavery appears ever to have been made with Persia, the Turkish or Egyptian Authorities, among all of whom the trade has almost immemorially been carried on to a large extent.

On the 8th January 1820, a treaty was concluded with four Arab Chieftains of the Persian Gulf, Hasan Bin Ramah, Sheikh of Abuthabee, formerly of Rasul Khymah, Kareebb in Ahmud Sheikh of Jomal al Kamra, Shakboot Sheikh of Aboo Dabay, Hasanbin Ali Sheikh of Zyah, by Major General Sir W. Grant Keir, commanding the expedition sent by the Bombay Government against the Ben-i-boo Ali and other piratical chiefs.

Slavery in India, 1838, p. 89.

The Sheikh of Bahrein appears to have also acceded to this treaty, and it is that which is now officially declared as the general treaty.

The 9th Article of this treaty refers especially to the slave trade, at that time rife and almost unchecked. The Article declares that the "carrying off slaves, men, women or children, from the Coast of Africa, or elsewhere, and the transporting them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of the kind."

Whatever might have been the intention of the original parties to the framing of this treaty, or this particular article, the authorities of Bombay appear to have restricted its interpretation to the primary act of enslaving Africans by force,—thus excluding any general dealings in slaves; for they instructed the Resident in the Gulf, to construe the somewhat ambiguous article as evidently alluding only to descents made on the Coast of Africa for the purpose of making slaves; observing that this is justly declared to be plunder and piracy, terms which it would have been an abuse of language to apply to any trade, however detestable, as long as it was peaceably conducted. "In this sense (they add,) must the 9th Article be understood; but every infringement of it, where clearly established, must be resented exactly as a case of piracy would be."

Idem, p. 223 and 59.

Slavery in India, 1838, p. 89, 90, 223.

The powerful and independent Chief of Muscat, besides his own proper country on the Arabian Peninsula, holds considerable possessions along the Eastern Coast of Africa, and at Zanzibar in particular, one of the greatest and most pestilent slave marts. With this Prince, a treaty was effected in August, 1822, by Captain Moresby of His Majesty's Ship *Menai*, thereto commissioned by the Governor of Mauritius, who found his endeavours to put an end to the slave trade in that island, baffled by French vessels resorting for a ready supply to the abundant markets of Zanzibar and the East Coast of Africa.

Slavery in India, 1838, p. 89.

In 1821, the Honorable Court of Directors had taken up the question of the Muscat and Zanzibar Slave-trade, in a despatch to the Governor in Council of Bombay (11th April) giving cover to a Memorial from the President and Directors of the African Institution on the subject, and the Court had urged on their Governor the exceeding desirableness of using the strongest persuasive influence

Idem, p. 91.

to prevail on His Highness the Imaum to put an end to the traffic. A letter was accordingly addressed to His Highness, setting forth the detestable nature of the traffic and requesting his co-operation in its suppression.

Slavery in India, 1838,
p. 92.

In October of the same year also, the Supreme Government communicated to that of Bombay two despatches from the Governor of Mauritius, which after adverting to the progress made in effecting the annihilation of the slave-trade at that island under the operation of the treaty concluded with the King of Madagascar, noticed, as a consequence of that measure, the resort of the French Ships engaged in that traffic to the East Coast of Africa, and particularly to the port of Zanzibar belonging to the Imaum of Muscat.

The Bombay Government having in the mean time received a complaint from the Imaum regarding two of his ships with slave cargoes, which had been detained by English cruisers, took the occasion, while disclaiming all intentional interference with His Highness's independent rights, to represent forcibly the gratification which he would afford to the British Government as well as the whole nation, if he would stop the slave-trade within his dominions altogether, or at the least, *that* carried on with Europeans.

In December, 1821, His Highness accordingly agreed to prevent any British dependents from carrying on the trade in his dominions, and he issued orders to his Governor at Zanzibar to forbid the selling of slaves to any European. But it appears that His Highness declined to prohibit the trade among his own subjects. The Resident in the Persian Gulf was advised of these proceedings forthwith, and instructed to endeavour earnestly to accomplish the desired object of effectually checking the nefarious traffic, if it could not be suppressed altogether, through explanations and arrangement with His Highness. By a communication from the Governor of Zanzibar which the Imaum forwarded to Bombay, it appeared, that slave cargoes had already been refused to some French ships, and for this, a letter of thanks with suitable presents was sent to the Hakim from the Governor of Bombay.

On the 29th August, 1822, Captain Moresby finally effected the treaty with the Imaum of Muscat, and communicated it in person to the Bombay Government. By this important instrument, that Prince declared the trade in slaves with European nations for ever prohibited, and authorised the seizure of all vessels with slaves, whether of his subjects or under his own flag, which should be found to the East of a line drawn from Cape Delgado on the Coast of Africa, to 60 miles East of Socotra, and thence to Diu Head in Guzzerat.

This restricted the portion of slave trade that was still to remain undisturbed in the hands of his own subjects and those of all other powers, not Christian, within narrower limits, and, in particular, it must have been a considerable protection to all the Western Coast of India up to Diu Head, from much of its liability to the visitations of the boldest and most active slavers of the East, who could no longer hover off the Coasts in their own vessels watching opportunity to run their

In 1825, the Imaum appears (by despatches from the Resident in the Gulf ^{Slavery in India, p. 92.} which are not before us) to have complained, through that officer, of certain interferences with his people by British Agents on the Coast of Africa, and to have set up a claim, of which we do not gather in the evidence, the foundation, to the assistance of the British Government against all his enemies.

In a consequent interview with His Highness's Agents, the Hon'ble Governor Elphinstone had taken occasion to observe, that such interferences arose solely out of the anxiety of the British Government to put a stop to the slave trade in which His Highness was supposed to be so much engaged, which belief much interfered with the esteem in which His Highness would otherwise be held by all Englishmen ; for which reason, as well as for humanity's sake, the Governor was most anxious that some means should be devised to put a stop to the traffic throughout the entire dominions of His Highness, who was therefore requested to suggest whether any, and what, compensation would induce His Highness to abandon it altogether. Idem.

In consequence, the Imaum made through his agents what Mr. Elphinstone considered an inadmissible proposal. But His Highness's letter, containing the proposed terms of compensation, deserves attention, because it distinctly sets forth the difficulties of the Imaum's position in reference to the embarrassing question of slave-trade abolition.

" We now write this in reply to the proposition for the entire suppression of the slave trade made through you by the Honorable the Governor."

" You are well acquainted with the fact, that the chief revenue and advantage derived from Zanzibar arose from the sale of blacks ; but that notwithstanding this, on Capt. Moresby's coming here (to Muscat) sometime ago, and on his requesting us to come to some agreement on this point, (the abolition of the Slave Trade as respected Europeans,) we put up with a very great loss, and consented to Capt. Moresby's proposition, in order that we might satisfy and please the British Government. At the present moment they appear to desire this prohibition to be universally extended, i. e. to Asiatics and Mussulmans as well as to Europeans. You know well what a weighty matter this is with Mussulmans, and that to them it appeared a very harsh measure. Should such a measure be adopted, the whole (Mahomedan) World will become our enemies, some overtly and some secretly ; and the case of one who becomes viewed as an universal enemy is very difficult ; notwithstanding which, by reason of the friendship I entertain for the English nation and the alliance I hold with them, I would not mind incurring any risk."

" This matter might accordingly be arranged on either of the following conditions."

" 1st. That the British Government bind themselves to defend me against either mine own or their enemies both by land and by sea."

" 2dly. Or if they consider the above proposition inexpedient, then let them give me the country of the Portuguese (Mozambique &c.) according to Captain Owen's promise to me."

"3ily. Or if this also be impracticable, let them (the British Government) make a provision (in money) for me, that we may then go to Zanzibar and reside there, and give up our native country."

Slavery in India, 1838,
p. 93.

In 1828, the Imam, reverting to the subject, directed his agent to obtain from the Bombay Government its sentiments with regard to the traffic of slaves carried on at Mozambique.

The acknowledgments of Government were conveyed to His Highness for the sincere interest he took in the abolition of this detestable traffic in human flesh, but he was informed that, as far as regarded the Portuguese settlement of Mozambique, the Government of Bombay could neither authorize nor advise any interference.

17, Oct. 1827,
19, April, }
7, June, } 1826,

Re-
turn
p. 12.

The first of the Imam's proposals seems to have been declined, as involving the Government too closely in Arabian politics; the second, as being one which could only be entertained as a national question by the Ministers of the Crown; and the third, for reasons which we gather from a despatch addressed to the Bombay Government by the Hon'ble Court of Directors in the following year, 1827, written in reply to detailed expositions of the views of that Government (which do not appear in the papers before us) as to the construction of all the Arab Treaties, and the Imam's position with reference to the slave trade, and to the negotiations regarding that question. The Hon'ble Court concurred generally in the views of their Government, and in particular, expressed an opinion in accordance with that of the Hon'ble Governor Elphinstone and the majority of his Council, (Mr. Warden dissenting,) that the concessions made by the Imam in abolishing the slave trade with Christian nations, and, permitting seizure of his own vessels within the limits, were substantial, and as much as could possibly have been expected from a Prince in his circumstances, involving as they did, a sacrifice of revenue from this trade as well as from the general commerce of his ports arising out of it; the concession too, according to Capt. Moresby who negotiated it, being an unpopular one, in a country and among a people where power depends on popularity, and slavery is permitted by law and custom. The Hon'ble Court, therefore, considered his objections to take any further steps without compensation, reasonable.

But with regard to the three alternative proposals of His Highness detailed above, the Court approved of their having been declined for the reasons assigned by the majority of the Bombay Council, and they concurred in the opinion that if the Imam, as he proposed, were to retire from Muscat on a pecuniary provision, such an event would be "a serious evil in very many points of view," adverting to all that His Highness has done, and desired to do, under the circumstances of his position.

Slavery in India, 1838,
p. 13.

The Honorable Court in this dispatch go on to declare their belief that the suppression of the European Eastern slave trade depends mainly on the "faithful fulfilment of our existing treaties with the Imam of Muscat, and his cordial co-operation, and they add, the African and Arabian slave trade in the ports of the Pacha of Egypt and Imam of Senna would flourish, and counterbalance greatly the advantages to be derived even from the abolition of Mahomedan Slavery by the Ruler of Muscat. But under any circumstances they consider it essential to the ultimate at-

tainment of the desired end, that nothing should be done to diminish his authority and influence as a Mahomedan Prince, or to place him in a position of hostility with the people of Arabia, against whom in justice he must be defended by our Government, if we have forced on him measures endangering his safety. For these reasons the Bombay Government is instructed not to press the Imam further on this point of the general abolition of slave trading, but to return His Highness the most cordial acknowledgments of the Court of Directors for the concessions he has already made of such obvious tendency towards the suppression of the European slave trade, and to assure him of the high value they attach to the co-operation he has hitherto shewn, and which they trust he will continue to manifest in the prosecution of this great object."

At a subsequent period, the Hon'ble Court of Directors thus expressed their expectations on the subject to the Bombay Government: "By the judicious exercise of influence you will no doubt in time be able to accomplish another object of importance to civilization, the suppression of the slave trade which is still carried on, though to a limited extent, between the Coast of Africa and the Arab ports, not excepting Muscat."

Slavery in India, 1638
p. 15

"In the papers now submitted to us," the Court go on to say, "Various indications occur, that the Arab states in the Gulf would not be averse to our assuming that general protectorship over them which would be implied in our prohibiting wars, and becoming the arbitrators of all their disputes. We entirely concur with you, however, in considering the assumption of such a power, and indeed any more intimate connexion with those states than at present exists, to be wholly unadvisable."

The subject was but little agitated between 1828 and 1838, but in the latter year, very satisfactory and final arrangements were effected both with the Imam of Muscat and the Arab Chiefs in the Persian Gulf who were parties to Sir W. Grant Keir's treaty of 1820, by which, combined with the internal precautionary measures we shall detail in the sequel, the Coast of India was entirely freed from apprehension of slaves being imported from Africa or elsewhere.

It appears that Captain Hennell, Officiating Resident in the Persian Gulf, who is vested with the conduct of all the relations of the British Government with the States in that quarter, received towards the end of 1837, a complaint from a person named Ubdullah-ben-Ivvuz stating, that some Joasmee boats had carried off a large number of Girls (233) from the Coast of Barbarah under pretence of marriage, and had disposed of them as slaves at Ras-ul-khyma, one of the Joasmee Ports. The Chief of the Joasmees, Sultan ben Suggur, when called to account for this, denied the fact as to the enticing away these girls, but admitted that some had been purchased from tribes who held them as prisoners of war, and contended that such traffic was not contrary to the 9th article of the Treaty.

Captain Hennell took advantage of the warmth with which the Joasmee Chief denied his participation in these alleged outrages, and asserted his willingness to aid in putting them down, to obtain his signature upon the spot to an agreement,—that he Sultan bin Suggur, Sheikh of the Joasmee tribe, in the event of vessels connected with his ports, or belonging to his subjects, coming under the suspicion of being em-

ployed in the carrying off (literally stealing) and embarkation of slaves, men, women, or children, agreed to their being detained and searched whenever and wherever they may be fallen in with on the seas by the cruisers of the British Government; and further, on its being ascertained that the crews had carried off (literally stolen) and embarked slaves, their vessels should be liable to seizure and confiscation by the cruisers. A similar agreement was at the same time signed by Sheikh Rashid bin Humud Chief of Amulgaveen, Sheikh Mukhtoom, Chief of Debaye, and Sheikh Khuleefa ben Shukboot Chief of Aboothabee. The Resident in his letter handing up this document remarked, that this agreement did not in any degree pledge the Government to any specific line of policy with reference to the slave trade.

11th July, 1839.
6th August, 1839.

The Government of Bombay entirely approved of these engagements, as did the Government of India.

Before the close of the year 1839, Captain Hennell had concluded with the Arab Chiefs and the Imam of Muscat formal Treaties to the above effect, but more precise in defining the limits within which the right of search was to be exercised.

Treaty executed in July, 1839, by Sheikh Khuleefa, of Aboothabee; Sheikh Mukhtoom, of Debay; Sheikh Abdulla, of Amulgaveen; Sheikh Sultan bin Sugur of Ras-ul-khymah.

" I do hereby declare that I bind and pledge myself to the British Government in the following engagement :—

" 1st.—That the Government Cruizers, whenever they may meet any vessel belonging to myself or my subjects, beyond a direct line drawn from Cape Delgado, passing two degrees seaward of the island of Socotra, and ending at Cape Guadel, and shall suspect that such vessel is engaged in the slave trade, the said Cruizers are permitted to detain and search it. "

" 2nd.—Should it on examination be proved that any vessel belonging to myself or my subjects is carrying slaves, whether men, women, or children for sale, beyond the aforesaid line, then the Government Cruizers shall seize and confiscate such vessel and her cargo. But if the aforesaid vessel shall pass beyond the aforesaid line, owing to stress of weather or other case of necessity not under control, then she shall not be seized. "

" 3rd.—As the selling of males and females, whether grown up or young, who are " Hoor," or free, is contrary to the Mahomedan Religion, and whereas the Soomalee tribe is included in the Ahrar or Free, I do hereby agree that the sale of males and females, whether young or old, of the Soomalee Tribe, shall be considered as Piracy, and that after four months from this date all those of my people convicted of being concerned in such an act shall be punished the same as Pirates."

Treaty executed by His Highness Saeed Bin Sultan, Imaum of Muscat; dated 10 Shawal 1255 or AD 1839, 17th December.

" I agree that the following Articles be added to the above Treaty, concluded by Captain Moresby on the aforesaid date."

1st. "That the Government Cruizers, whenever they may meet any vessel belonging to my subjects, beyond a direct line drawn from Cape Delgado, passing two degrees seaward of the Island of Socotra, and ending at Pussein, and shall suspect that such vessel is engaged in the slave trade, the said Cruizers are permitted to detain and search it."

2nd. "Should it on examination be found, that any vessel belonging to my subjects is carrying slaves, whether men, women, or children for sale beyond the aforesaid line, then the Government Cruizers shall seize and confiscate such vessel and her cargo — But if the said vessel shall pass beyond the aforesaid line owing to stress of weather or other case of necessity, not under controul, then she shall not be seized."

3rd. "As the selling of males and females, whether grown up or young, who are Hoor, or free, is contrary to the Mahomedan religion, and whereas the Sooma-les are included in the Hoor, or free, I do hereby agree, that the sale of males and females, whether young or old, of the Soomalee tribe, shall be considered as piracy, and that 4 months from this date, all those of my people convicted of being concerned in such an act, shall be punished as Pirates."

The only difference between the treaties with the Imam and the Arab Chiefs is, that the Imam would not agree to the boundary line being fixed further west than Pussein on the Mukran Coast, which is 70 miles East of Cape Guadel, the point agreed to by the Arabs, the reason assigned being that Pussein was the Easternmost boundary of His Highness' territory on the Mukran Coast; and that its provisions do not appear to apply to His Highness' own vessels, probably in deference to his dignity as a Sovereign Prince, and to his close alliance with us. But there is an essential variation between this treaty with the Joasmees and that concluded with them by Captain Hennel, as reported in his letter of 28th April, 1838; for in the former one, there was no mention whatever of any particular limit within which their vessels should not be liable to seizure, and we draw attention to this fact, because no explanation of the cause of less stringent terms having been required from these tribes in the Treaty last executed, is on record.

Whilst these efficient measures were pursued against the external traffic in slaves in the Arabian Sea, the Government of Bombay was engaged in negotiations with its allies on the continent of India, for the purpose of inducing them to prohibit the importation of slaves into their territories by Sea.

So long ago as December 1835, Sir A. Burnes reported that the Rão of Kutch had given his ready assent to the wishes of Government on this head, by issuing a proclamation against importation. In the same month the principal Chieftains of Kathiawar, the Peninsula between the Gulfs of Kutch and Cambay, declared their adhesion to a general league prohibiting the Indian traffic in slaves.

The Rão of Kutch formally acceded to this, and the Gaikawar, on whose part we exercise the paramount rule in Kathiawar, was also understood to have consented to the measure.

With regard to the actual state of the trade in slaves, we are without any evidence to shew any diminution in the extent of the East African branch of it. The treaties lately concluded are of too recent a date to admit of any just calculations being drawn from them, besides that they are calculated solely to keep the traffic away from the shores of India; and do not in any way interfere with that carried on in the Gulfs. Even up to this time, there is no agreement with any of the States in the Red Sea or with the Coast of Arabia, nor any restriction on their voyages, and it appears they carried on a considerable slave trade with the North West Coast of India, till it was put an end to by the Bombay Government prevailing on its dependent allies in that quarter to prohibit all importation and dealing in slaves.

To render the preventive system ample and effectual, the concurrence of all the Arabian, Turkish, Egyptian, and Persian powers is requisite to a treaty on the principle of those above noticed. The authorities seem to agree in thinking this concurrence cannot be obtained, or if obtained, is only to be upheld by a vast increase in the number of the Ships of War maintained by the British Government in the Gulfs, since the interest of those States is deeply involved in keeping up a traffic that is allowable by their law, and brings them in a large revenue.

Hennell,

Court of Directors.

It is stated by Captain Hennell, that the Imam of Muscat alone is said to have lost 100,000 crowns already by assenting to the treaty we effected with him in 1822. But if the Coast Blockade agreed to by our Allies in Kutch and Kathiawar be enforced with good faith and vigour, the importation of slaves must soon dwindle to an amount so low as will induce the remaining Arab powers to listen to reason on the subject.

The principle of compensation we observe was strenuously opposed by Captain Hennell, and was decidedly objected to by the Bombay Government for reasons given in a correspondence we have inserted in the appendix. Captain Hennell indeed stated his conviction that granting compensation to the Arab Chiefs would only throw the trade into the hands of the inhabitants of the Persian and Turkish Ports in the Gulf.

In the list of papers entitled "Slavery in India" will be found a very ample account of the extent of the Gulf slave trade at the date of 1831, being an account by Colonel D. Wilson, at that period Resident at Bushire in the Persian Gulf, in a report to the Government of Bombay embracing as well the States under the treaties effected by Captain Moresby and Sir W. G. Keir as those States with which we have no treaty.

Colonel Wilson concludes his interesting details with a strong expression of opinion, which is worthy of notice as coming from a person of so much local experience and general ability, that "if the States in that quarter could be induced to abandon entirely the traffic in slaves, few single acts could contribute so much towards their progress to civilization, and the ameliorating extension of their peaceful commerce and intercourse with India and elsewhere, to the infinite benefit of their neighbours as well as of themselves."

There is reason to believe that the practice of seizing and carrying off slaves from the Coast of Africa, still continues in spite of the strenuous exertions of the

Government of Bombay to suppress it. In a preceding part of this report we have noticed indications of this practice to which the resident at Bushire called the attention of the Bombay Government.

The acting Resident Captain Hennell, as already stated, called upon the Chief of the Joasmee tribe to answer for carrying off slaves, and although he laid it upon other tribes, the Resident declared his belief, that acts of violence were perpetrated by Arab vessels in the manner alleged. During Captain Hennell's temporary absence from Bushire his assistant, Dr. Mackenzie, having received answers from the Agents at Muscat and Shargah relative to the alleged outrage, reported to the Bombay Government that although it was not brought home to the Joasmees, a disgraceful traffic in slaves was carried on, not only by them, but by every port of consequence in the Gulf; and he instanced one act committed by the subjects of the Chief of Rowah who had carried off persons of a low tribe, the Soomalces, into slavery.

The Resident, in reporting on his Assistant's letter, stated that the traffic alluded to did exist, but that the subjects of it were for the most part females, with a few Negroes and Abyssinians, procured by purchase, and were by the Mahomedan faith legitimate bonds-women. We presume this to mean that Pagans and Christians, not being of the faithful, are lawful slaves when taken prisoners in war. He added,—that instances had taken place of Soomalees also being brought for sale, but rarely, not one in a hundred being of that tribe, that they would, if the fact were known to the authorities, be immediately set free,—that the Sheikh of Rowah was not a party to the general treaty,—and called himself a subject of the Turkish Government, but would be required to account for carrying off the seven Soomalee girls from Barbarah. The Government of Bombay thought it highly improbable that the protection secured to the negroes of the Coast of Barbarah by Sir W. Grant Keir's treaty, excluded the Abyssinians, many of whom are Christians, and have the strongest claim to the protection of the British Government; and the Resident was directed not to lose sight of the case of these people, nor of the African children.

3rd Sept. 1838.

The importance and value of the arrangements, lately concluded with the dependent, or semi-dependent states in Kutch, Kathiawar, &c. for prohibiting the trade and seizing slave vessels and cargoes, may be appreciated in some degree from the recent evidence of Capt. Brucks, Indian Navy, Commodore at Surat, of Mr. Secretary Willoughby, late Political Resident in Kathiawar, and of Lt. Colonel Sir A. Burnes, acting Resident in Kutch.

The first mentioned officer reports (Jan. 1836) on his return to Surat from inspecting the Kathiawar Coast, that from Pore-bunder, five boats used annually to resort to Zanzibar and the Coast of Africa, for purposes of ordinary commerce, each of which would bring back 6 or 8 slaves as a private venture of the Nacoda in command, and his crew, who would pass them off, if necessary, as servants. That a considerable commerce is carried on from the same place by Arab vessels with Africa and both Gulfs, all the vessels engaged in which openly or in the manner above stated import slaves. These importations used to reach Pore-bunder at two periods, just before the S. W. Monsoon commences and just after it is over. The slaves were sometimes landed at Nowa-bunder, and other ports of the Rana, and many found their way to Bombay in this manner.

Mangalore, he adds, sends one or two boats every year to Zanzibar and has some trade with the Gulfs ; and the same remarks apply to it as to Pore-bunder.

Verawul, a very large town belonging to the Joonagurh Nuwab, carries on a large commerce with Zanzibar and the Gulfs, and numbers of slaves are thus introduced here and into other ports of the Nawab in the very same way. A town called Puttun, near it, is a place where slaves may be, and he believes are, landed. Between the Portuguese settlements of Diu and Mozambique, a regular commerce is well known to be maintained.

About five or six brigs are thus employed every year, and sometimes each brings from 10 to 20 slaves back. Some are taken into the adjacent districts, some to Goa, others smuggled "by one and two at a time," as a part of the crew or servants, into Bombay and Surat.

Captain Brucks believes all the ports and places on the West Coast, from Diu to Tulajiya, as also the Coast of Okamundul and the various places in the Gulf of Cutch, participate in the slave trade, as also that Mandavie in particular has much traffic in slaves, many of whom find their way into the British Territory.

Sir A. Burnes in December, 1835, in reporting the ready acquiescence of the Râo of Cutch in the wishes of Government for prohibiting and effectually stopping the slave trade, states by special desire of the Râo, that there are no slaves imported into his country except about 4 or 500 negroes from Zanzibar, to which the Resident adds, a few from Muscat, as he has seen "about 40 of these poor creatures" sold publicly in the Bazar so lately as in June 1833, and is told that such was "a daily and common occurrence." On behalf of the Râo, the Resident is desired to add that in our sense of the word as applied to West India slaves (in His Highness's own words,) the situation of the Zanzibar slaves in his country is quite different; they being received as members of the families to which they are admitted and treated with great kindness, some of the females being even married: some are sent to Scinde, His Highness further says, and others married to the Seedhees or Negroes settled in Cutch, a numerous, and the Resident adds, "I may say a happy community."

The Râo goes on to express a wish most reasonable and acceded to accordingly by Government, that sufficient time should be given for the return of vessels already departed for the African Coast ignorant of offence or of the impending change, and who will undoubtedly bring negroes along with them to Mandavie.

In February 1836, the same officer, Sir A. Burnes, reports the issuing of the Rao's penal proclamation, and further progress towards suppression of the trade.

He takes occasion to draw the attention of Government, for the second time, to the extent of the Muscat slave trade and the Imâm's encouragement of it, which he asserts, has the effect of intimidating the Rao, lest the commercial prosperity of Cutch should be injured by the Imam's taking umbrage. A recent case is instanced of 6 negroes admitting themselves to be slaves, who ran from an Arab vessel at Mandavie, and took refuge at Bhooj, complaining of starvation and ill treatment. The Rao declared them free and allowed them to live in his household, "at which they were delighted." But shortly after, the navigator of their vessel appeared,

and claimed the slaves as belonging to a near relation of the Imaum of Muscat, when the Rao immediately gave them up. Sir A. Burnes reports the case in proof that the Rao's interests forced him to act contrary to his humane and benevolent wishes, and emphatically adds, "If the slave Trade is abolished in Muscat, it will cease in Cutch."

Mr. Secretary Willoughby reports (1st December 1835) that when Political Resident at Rajcote (Kathiawar) he found, that much trade in slaves was carried on at all the ports of Kathiawar and even more in those of Cutch. Inspection of the Porebunder Custom House books and accounts of duties levied, verified his suspicions. The slaves are imported chiefly from Muscat and various ports in Arabia and Scinde, and also brought into Kattywar from Cutch. The trade is conducted chiefly by the Budalla and Curwa castes, who frequent the ports and contract to navigate vessels for ship owners (who drive a trade with Arabia, the Persian Gulf, and coast of Africa) at a fixed rate for the voyage, together with a portion of private tonnage. By this means they were enabled to import slaves, for whom a ready market is always found among the chiefs, Rajpoot, Moosulman, and Katty. The places to which they chiefly resort for slaves are "Mokha, Judda, Maculla, Sohal, &c."

Returns p. 15,
p. 107.

The majority of slaves are males. Stout healthy boys of 8 or 9 sell for about 40 rupees, increasing to a certain age and then diminishing. A youth of 20 is not so easily disposed of, being less likely to submit to the yoke of slavery, but prone to escape. At Rajcote, tractable fine youths fetch from 80 to 100 rupees; those of average quality about 60. Females are dearer, being sought as wives by the poorer classes of Scindees and other Mahomedans, as cheaper than wives of their own caste.

The demand for African boys in Cutch is very great, Mr. Willoughby assures us, as "they are taught mechanical arts and become most useful members of the community." At Mandavic there are 800 houses belonging to the above-mentioned Budalla and Carwa castes. The importation from Arabia thither is on a great scale, and they are thence brought into Kattywar, whence slave dealers clandestinely transport them to Guzerat and all parts of Hindoostan. African slaves are highly prized in Kattywar and always employed in domestic servitude, never in agriculture.

The slave trade is also carried on with the port of Diu in Kattywar, belonging to the Portuguese, where a great number of African boys are to be seen.

Return p. 108.

Of two modes by which the Kattywar trade might be checked. viz: Prohibition by the paramount British Government, or enlisting the chiefs in the good cause, Mr. Resident Willoughby considered the latter most prudent and practicable; and by judicious addresses to the principal chiefs, viz: the Nawab of Joonagurh, the Jam of Nowanugger, the Rana of Porebunder, the Thakoor of Bhownuggur, the chief of Mangrole, and the authorities at Jafferabad, obtained their adhesion to the general league for abolishing the India traffic in slaves, to which the Rao of Cutch also adhered in February 1836.

Return p. 151.

In consequence, as it would seem, of these exertions and the successful addresses of Mr. Willoughby to the different chiefs, a number of slaves appear to have been

shortly after seized by the Porebunder authorities on the requisition of British Officers on the spot. These amounted to 79 in all, imported on three Arab ships bound with goods to Bombay from Maculla, which had put into Porebunder on pretence to wood and water, but it would seem really to dispose of these slaves, which they were afraid to take to Bombay. These were seized at the same time and place, but after some detention seem to have been allowed to proceed to Bombay through the connivance of the Rana, who, not without reason, as it appeared, was afraid of reprisals on the part of the Arab States. The slaves were sent up to Bombay under British charge, and placed under the care of the Chief Magistrate of Police until the law authorities should decide as to their final disposal.

Two grave questions arose on this occasion. 1st. Whether the ships could be detained, and proceedings had in the Supreme Court against the ships, commanders or crews. 2d. How the slaves were to be dealt with at Bombay, being all of tender age, having been seized and liberated by foreign authorities at Porebunder. The British Government was willing to support them, and proposed apprenticing the males to the Indian Navy or other occupations, and the females as private servants or to charitable institutions.

Returns p. 132.

51 Geo. III. Capt. 23.
4 Geo. IV. Capt. 113.

These points were referred to the legal advisers of Government, and to the 1st question, Mr. Advocate General LeMessurier replied decidedly in the negative upon all the points. If the vessels or crews, he said, being foreign, belonged to nations with whom the Government had any treaties concerning the trade in slaves, then according to such treaties only could they be dealt with, but not under the British slave trade abolition laws, which affect only the subjects of His Majesty or persons residing or being within the United Kingdom, or any of the dominions, &c. belonging to His Majesty, or in his possession, or under the Government of the Hon'ble East India Company, and can have no force over foreigners, least of all in a case of seizure like that in question, in a foreign port (Porebunder.)

3 and 4 Gul. IV. c. 85,
8, 88.

The Advocate General justly adverted to the slow progress and great difficulties environing the slave-trade abolition questions from 1787 up to the present day, and to the statutory recognition of slavery in India so late as the last India Charter Act. He added that these slaves thus brought to Bombay could not properly be paid for by the British Government or by the Rana, lest it should encourage other importers, notwithstanding the willingness of the Rana to do so, or to restore them to their owners, because of his fears of reprisals from the Arabs, damage to his people, and injury to the revenue and commerce of his port on account of this transaction.

The Advocate General in fine counselled the utmost caution and delicacy in meddling with the slave system and traffic of the wild and lawless Arabs, and advised that the slaves should be sent to the Government to which their owners belonged, though not without a strong remonstrance on the inhumanity of this traffic, and a recommendation that the individuals should be set free.

To the 2nd question, regarding the lawful disposal of the young slaves, Mr. Acting Advocate General Roper answered, that in strict law, the Government could not stand in loco parentis to the children, nor legally apprentice them out, neither could

the slaves effectually bind themselves and masters, (as in England might be done) because of doubts, how far the apprentice law might be of validity in India, or Justices of Peace possessed of the enforcing jurisdiction given by that code. The Acting Advocate General did not conceive that there could be any objection to the boys entering the Indian Navy. He however advised the greatest caution, to satisfy them that they were perfectly free agents in the matter. He advised, however, that the Government should so far take on itself the parental function, as to place the children of both sexes with individuals of known respectability and humanity, who should enter into regular engagements as to their treatment, instruction, and ultimate liberation, or hire as servants. This course was ultimately followed. The Government put the children, in the first instance, on a small stipend for each, under the humane charge of a benevolent individual, Mr. Acting Secretary Townsend, who volunteered his good offices until they could be gradually and advantageously placed out; and many of them subsequently were so placed.

Slavery in India, 1838
p. 160,
197

p. 138.

Two other parties of young slaves, in all amounting to 18, of all ages from 6 to 17, were similarly rescued shortly after, in Kattywar, all of whom, we gather, were similarly disposed of, under charge of Mr. Townsend. His enlightened views in regard to their education and treatment in modification of the condition at first required by Government (that all these liberated young people should be brought up as Christians,) we think it right to record in justice to that excellent person and to his superiors, who judiciously acquiesced in those views.

Return p. 17.

‘Of the name (of religion) I would say nothing,’ Mr. Townsend writes, ‘with their manner of food and clothing, I would not interfere. I would have them put in schools where they would be well taught and kindly treated, and instructed in a manner which might eventually lead to their embracing Christianity. The object would be to enlighten their minds, to make them acquainted with our sacred books, and to give them such a course of education as would enable them hereafter to earn their bread.’

Both of these last parties of young slaves appear to have been originally Cutch importations, and to have been thence carried into Kattywar. The first consisting of ten, by a Turk under a forged pass, purporting to be from the Rão and Colonel Pottinger, the Resident; the second by a Sahoooar of Mandavie, who freighted a vessel for slaves from Bate in Guzzerat, direct to the coast of Abyssinia, which returned with its cargo after a ten months’ voyage.

The fears of the Rana of Porebunder, lest the seizure of the vessels and slaves at Porebunder should bring upon him reprisals and damage, turned out to be well founded. Indeed considerable embarrassment to the Indian Government arose out of this transaction, and at one time it appeared likely to terminate in hostilities with some of the minor independent chiefs on the southern coast of Arabia.

Return p. 181, 189.

The Sultan of Wadi, the principal inland town of the Maharra Bedouins, whose Sea Port, Haswail, carries on a brisk slave trade with the Sawahel or East African Coast, on learning the detention of his ships at Porebunder and Bombay, and the liberation of the slaves, seized in February 1836, a Buggalow laden with goods belonging to a Hindoo British subject of Bombay, the cargo of which appears to have been

Returns p. 162.

Return p. 173.

Do. p. 161, 16, 166.

Returns, 179, 182, 183.

Returns, p. 162.

P. 171, 179.

Slavery in India, 1838,
1st 1.
March, 1837.

valued at 13,500 and the vessel at 4,000 Rs. This act was avowedly committed in retaliation for the seizures at Porebunder in November preceding, and the Government of Bombay at first, on receiving the complaints of the suffering parties, prepared to obtain restitution by sending over an armed force in the event of the Arabs refusing to yield to the remonstrances of Captain Haines, of the Indian Navy, then in the neighbourhood, and commissioned to demand reparation. The Supreme Government however on being consulted, seem to have recommended a conciliatory course, for which indeed there was substantial reason, inasmuch as the Arab vessels at Porebunder appeared to have had no sufficient warning, that their accustomed slave traffic with the ports of our allied dependents was about to be visited with confiscation. The papers before us do not enable us to trace the precise manner in which this embarrassing affair terminated; nor, in particular, whether the Bombay merchants ever recovered their goods, or indemnity for them from their own Government or from the Arab Chief, who professed his willingness to restore the vessel, but excused himself as to the cargo, which he averred to have been plundered and dissipated by the mob beyond recovery before he could interfere.

It appears however, that the Bombay Government dispatched a vessel of war to Wadi, of which the commander was authorized to offer moderate compensation for the slaves seized, and directed to require restitution of vessel and cargo. On failure thereof, he was to intimate coercive measures would be adopted. The result, as just stated, does not appear.

We do not find any evidence of further attempts, subsequent to those now given, at importing African slaves or others from that quarter into the Bombay or allied territories. But in the papers and returns already largely quoted, we find mention of a former curious case of alleged slave-trading, which seems worthy of notice, as some important discussions thence arose connected with the execution in India of the British statutes affecting the trade in slaves.

In March 1827, a British Colonial Brig, *L'Esperance*, which cleared out at Mauritius for Bombay, put into Mangalore owing to sickness on board, and there buried one of her mates. The master then claimed the protection of the magistrate (Mr. Babington,) as a Justice of the Peace, against three Portuguese and a Frenchman on board, whom he declared to have threatened his life, and to have endeavoured to seize the vessel and to compel him to run into Mozambique for slaves, and who were still meditating to force him into Goa, whence with fresh Portuguese papers they were to proceed on their slaving-voyage.

Mr. Babington thereupon seized the ship, papers and crew, under the Statute 6, Geo. IV. Cap. 110, and sent them up to Bombay, there to be disposed of by the Vice Admiralty Court. But on the vessel arriving at that Presidency, Mr. Advocate General Norton reported, that after argument before ^{the} Chief Justice ~~Samptson~~, the learned Judge intimated his opinion, that he had no jurisdiction to hold a Vice Admiralty Court, because the powers to that effect vested in the Recorder's Court appeared not to have been renewed when that tribunal was succeeded by the present Supreme Court. The Advocate General went on to say, that although ^{the} seizure certainly was legal, and the prisoners, parties engaged in a felonious transaction, yet it

Slavery in India, p. 201.

Idem, 196, 200.

did not follow, that there was any person entitled to seize under the strict interpretation of the Act, which contemplated and empowered only Governors, Collectors, and other officers directly holding Commissions under the Crown, and not any such functionaries of the East India Company. Mr. Babington therefore, Mr. Norton maintained, could not seize, still less could Lieutenant Macdonald of the Indian Navy, who brought up the Brig to Bombay by order of Mr. Babington. But it seemed competent to Captain Furneaux of the Royal Navy, commanding the *Hinde* sloop of War then in Bombay Harbour, to seize and prosecute in any Vice Admiralty Court. This officer however, after having taken possession of the *Esperance* in pursuance of the Advocate General's opinion, abandoned his capture, apparently from doubts as to the sufficiency of the evidence and the probability of condemnation by any other competent Court, to which the vessel must have sailed at certain expense and risk.

The Advocate General considered, that he himself might have prosecuted *ex-officio* in the Supreme Court, though not on the Admiralty side—but without probability of success under the strict rules of evidence required in such case, and in a matter depending so much on production and examination of ship's papers and parties. The prisoners, who had been committed for felony, were eventually released by Habeas Corpus without opposition, and the vessel was restored.

In this case the ends of justice were defeated by the want of a Vice Admiralty Commission. The Supreme Court at Bombay, like those at Calcutta and Madras, has Admiralty Jurisdiction, but it appears from this case that the Statute in question gives the jurisdiction only to Courts of Vice Admiralty, and this is certainly so with respect to the Statute 5. Geo. IV. c 113, with which we are more immediately concerned.

It would seem that since the establishment of the Supreme Court at Bombay, no Vice Admiralty Commission has been sent out to that Presidency, and since the late demise of the Crown none has been sent out to Calcutta or to Madras.

In regard to the legal difficulties as to qualified and duly commissioned seizers, we observe, that the general question was not raised only on this occasion of detaining the Brig *Esperance*, but had already occupied the attention of the Government and Law Authorities of Bombay, in consequence of a correspondence of which we gather imperfectly the substance, but the final result not at all from this volume of Returns.

In a Dispatch from the Court of Directors to the Bombay Government, dated 27th September, 1826, in answer to a reference of November 1824, the Hon'ble Court appear to have transmitted for information and guidance copies of a correspondence between the Board of Control, Earl Bathurst, and the Lords of the Admiralty relative to the execution of the 5th Geo. IV; and we infer that the Home Authorities had deemed it competent to the Indian Government to

Returns p. 19, 25, 26.

1826.

1827.

seize, and to commission their officers so to do under the provisions of the Slave Trading Laws.

21, April.

This Dispatch was probably received about March or April of the following year, when the attention of Government and of the Law Authorities at that Presi-

25, April.

dency was already alive to the seizure question in the matter of the Brig *Esperance*; and it appears that the Advocate General was then called on to advise the Governor in Council as to the forms proper to be observed in issuing the required commissions to Captains of the Company's Cruizers. In his reply, Mr. Norton, after supplying the form which he considered best adapted to the case, expressed very strong doubts as to the interpretation which had been given by the High Authorities in England to the provisions of the Statute, regarding persons qualified to seize, or to issue commissions.

Returns p. 221.

1829.

About the same time also, a Dispatch from the Supreme Government of 29th November communicated the particulars of the *Esperance* case, and the difficulties arising out of the want of a competent Vice Admiralty jurisdiction at Bombay. The reply to Bombay of the Hon'ble Court of Directors bears date 10th December 1828, and states briefly that the questions submitted were then under consideration of their Law Officers; a reply to the same effect of the 23d September 1829 appears to have been sent to the Bengal reference, and we are unable to gather from information before us, whether any further progress has since been made in the resolution of the difficulties that had occurred.

Appendix 18.

But so late as 1837, it would seem by a correspondence between the Government of Bombay and its Advocate General LeMessurier, which has been referred to us by the Government of India, that the questions regarding the right of the Company's Authorities in India to seize slaves and slavers under the British Acts of Parliament remained in the same doubtful position. 'Captain Rogers of the Indian Navy in 1837, being at Judda, and in command of the Euphrates cruizer, took three slave boys out of two ships, sailing under British Colours and Registers, the 'Francis Warden' and 'Fuzzul Kurreem.' The boys were slaves beyond doubt, bought to be sold again. They were brought to Bombay and dealt with as the Government had humanely disposed of so many others. Capt. Rogers reported that he had abstained from detaining the slavers as well as the slaves at Judda, only because he doubted whether his Government would wish to prosecute the matter further by seizing the ships; but as he was about to proceed on a cruize to the Persian Gulf, where he was likely to fall in with English vessels having slaves on board, the Captain very properly solicited, through Admiral Malcolm, Superintendent of the Navy, distinct instructions as to the line of conduct he was to pursue in regard to seizures of any kind under the Slave Trade Laws.

The Advocate General, referring to the Draft of a proposed Act which he had prepared for the Legislative Council of India, and which specifically conferred the power of seizing on the Indian Navy, replied in substance, that until the Act in

question should be passed, and the desired power distictly conferred, he could only recommend Captain Rogers not to interfere. Here again, under the actual system of our Indian Colonial Empire, we have high authority pronouncing it illegal for one class of the Public Naval Force to do that which another branch of the same force is bound to do, in furtherance of national designs and objects known to the whole world.

The last circumstance that we find deserving of notice is a complaint on a charge that was preferred towards the close of A. D. 1838 against the Government of Bombay by a M. Fontanier, French Vice Consul at Bussora, but then residing in Bombay, conveyed in a letter to the Captain of a French Man of War then in the Harbour, to the effect

That the Slave Trade was carried on at Bombay with the knowledge of the Authorities, who tolerated it.

That the slave trade was in full activity in the Persian Gulf, though it would be easy for the Indian Authorities to prevent it if they wished to do so.

That the Navigation Regulations in India were not in harmony with British Law in this point, for they allowed it to take place under the British Flag.

The Governor, to whom the letters containing these assertions had been handed by the French Officer, took the opportunity of recording a Minute, in which M. Fontanier was shown to be in error; and a summary of all the later proceedings of the Government towards putting down Slavery was drawn up and sent to the Home Authorities and the Government of India, as the readiest mode of refuting the injurious aspersions cast on the Bombay Government.

The correspondence on this subject will be found in our Appendix.

Since the preceding pages of this Report were sent to the press, some papers which will be found in the Appendix were received from the Government of India, conveying two interpretations by the Suddur Foujdaree Adawlut of Bombay of Section XXX. Reg. XIV. of 1827 quoted by us at page 265.

The first arose out of a case wherein a man having obtained the Magistrate's permission to export a slave into a foreign territory under pledge not to sell the slave, subsequently broke the pledge by disposing of the slave, and was put upon trial for the offence. The Court held that the Regulation in question did not provide for this case, but, having consulted their Hindoo and Mahomedan Law Officers, decided that a Hindoo or Mahomedan would be liable to punishment, not for sale of the slave but for disobedience to the Sirkar.

The second was that of a man who had carried off a free child from British Territory and sold it into slavery in Foreign Territory. The case had been viewed as one connected with the law against sale of slaves, and the prisoner under the interpretations we have just quoted, was acquitted, but upon its being discovered that the child was free born, an indictment for child stealing had been preferred against him ; the result of the trial is not yet known.

We believe that the Recommendations we shall have to propose in the sequel will fully meet the want of legislative sanction felt in treating the former of these two cases.

PAST LEGISLATION.

We now proceed to shew the course of past legislation in the Presidency of Bengal.

The first legislative measure regarding Slavery in Bengal which has come to our knowledge was adopted in 1774. On the 17th May of that year the Governor (Warren Hastings) in Council passed certain Regulations for the Police of the town of Calcutta of which the 9th and 10th are as follows.

9th. That every person who shall forcibly detain or sell any man, woman or child, as a slave, without a cawbowla or deed attested in the usual manner by the Cauzee of the place where the slave was purchased by the proprietor, or who shall decoy away or steal any children from their families or places of abode, shall be punished as the law to which he is amenable shall direct.

10th. That from the 1st day of July 1774, answering to the 21st day of Rebbet oos Sancee, or the 11th Assar Bengal style, no person shall be allowed to buy or sell a slave, who is not such already by former legal purchase; and any Cauzee who shall grant any Cawbowla after that date, for the sale of any slave whatever, shall be dismissed from his employment, and such Cawbowla shall be invalid.

On the 14th of the following month a copy of these two Regulations was circulated by order of Government to the Committee of Revenue at Calcutta, and to the several Provincial Councils established at Burdwan, Moorshedabad, Dacca,* Dinagore and Patna, with directions to "see the same effectually carried into execution in their Divisions"; and on examining the official records of those Bodies, with the exception of those of the Dinagore Council, which are imperfect, we find the following notices of the receipt of this order, and of the manner in which it was executed.

The letter was read by the Committee of Revenue at Calcutta on the 20th June, and on the 28th of the same month they ordered a publication to be issued in Beugallee and Persian to the effect of the Regulations.

The volume containing the proceedings of the Burdwan Provincial Council for this period cannot be found; we learn, however, from the Index Book that the letter was read on the 20th June, but no order is mentioned as having been passed in consequence.

By the Moorshedabad Council the letter was read on the 23rd June, and a reply was made on the same date in these terms, "It shall be our care to enforce your injunctions on the head of purchasing and selling slaves";—but no order was then recorded for the publication of them.

The Dacca Council replied on the 20th June, that they would "immediately publish the Resolutions;" but they at the same time submitted a question which we shall notice presently.

* The districts of Tipperah and Chittagong were at this time under the management of a Chief.

The Patna Council, on the 27th June, passed this order ; " That this Regulation respecting slaves be entered in the book of standing orders for the Adawlut Cutcherry, and that it be immediately made public throughout this division, and that a Persian copy be given to the Cauzee of the Sudder, with directions to circulate it to the several Cauzees in the pergunnahs."

The following Minute was recorded by Government respecting these Regulations on the date on which they were passed.

" It is necessary to remark upon the two preceding Regulations, that the practice of stealing children from their parents, and selling them for slaves, has long prevailed in this country, and has greatly increased since the establishment of the English Government in it. The influence derived from the English name to every man whose birth, language, or even habit, entitles him to assume a share in its privileges, and the neglect of the judicious precautions established by the ancient Law of the country, (which requires that no slave shall be sold without a Cawbowla or deed attested by the Cauzee, signifying the place of the child's abode,) if in the first purchase, (its parents' names, the names of the seller and purchaser, and a minute description of the persons of both,) having greatly facilitated this savage commerce, by which numbers of children are conveyed out of the country on the Dutch, and especially the French vessels, and many lives of infants destroyed by the attempts to secrete them from the notice of the Magistrate. There appears no probable way of remedying this calamitous evil, but that of striking at the root of it, and abolishing the right of slavery altogether, excepting such cases to which the authority of Government cannot reach ; such, for example, as Laws in being have allowed, and where slaves have become a just property by purchase antecedent to the proposed prohibition. The opinions of the most creditable of the Mussulman and Hindoo inhabitants have been taken upon this subject, and they condemn the authorized usage of selling slaves, as repugnant to the particular precepts both of the Koran and Shaster, oppressive to the people, and injurious to the general welfare of the country."

This Minute, and the Regulations to which it relates, are not very accurately worded. But upon the whole it seems, that the first of the two Regulations is merely declaratory of the old Law that no free person could be sold into slavery without a Cawbowla from the Cauzee, and that the second renders invalid the sale of any free person after the 1st July 1774. It is remarkable, however, that the only persons whom this Regulation permits to be sold are slaves who are " such already by former legal purchase ;" as if no one could be born a slave.

A question immediately arose upon this point, which is thus stated by the Provincial Council of Revenue at Dacca.—" As it is an established custom throughout the Dacca districts to keep in bondage all the off-spring and descendants of persons who have once become slaves, we request to be favored with your orders whether the benefit of your second Regulation is to be extended to the children of slaves born subsequent to the period mentioned in that Regulation."

The answer of the Government was in the nature of a rescript. They added it to the above-mentioned Regulations, and promulgated it in the following Circular to the Calcutta Committee of Revenue and the Provincial Councils.

"In consequence of a reference made to us by the Provincial Council of Revenue at Dacca, we have lately had under our consideration the subject of the rights of masters over the offspring of their slaves. In those districts where Slavery is in general usage, or any way connected with, or is likely to have any influence on the cultivation or revenue, which we are informed is the case in the frontier parts of Bengal, we must desire you particularly to advise us what is the usage and every circumstance connected with it, and we shall then give such directions as we may judge to be necessary; but considering the reference in the mean time, in the light of a general proposition, we are of the opinion, that the right of the masters to the children of the slaves, already their property, cannot legally be taken from them in the first generation; but we think that this right cannot, and ought not to extend further, and direct that you do make publication accordingly."

This Circular is dated 12th July, 1774, and we trace the following particulars respecting it on the official records of Government, and of the Bodies to which it was addressed, whose proceedings we have examined for this purpose to the close of the year 1774.

Being read by the Committee of Revenue at Calcutta on the 20th July, it was ordered, "that the Dewan be furnished with a translation of the purport of the former part of the letter to report on, and that the latter part be published accordingly."

The letter was read by the Burdwan Council on the 18th July, and on the 1st August they addressed a letter to Government of which the following is an Extract :

"Enclosed we have the honor to transmit you the reports of the Dewan and the several Naibs of our Division, in answer to the reference we made to them on the subject of slaves, in consequence of your orders of the 12th ultimo.

"Slavery is very little the custom in this country, and there is no danger of the revenue being affected by any Regulations you may think proper to make regarding it. The slaves of Talookdars do not appear to be sold with the lands. The report of Pudlochun, the Naib of Beerboom, is particularly explicit on this point, and we believe, very just."

"Oodey Narrain. Received 27th July 1774.—I have received your perwana regarding slaves, and have been informed by the most experienced men of Midnapore and Jellasore, that a master supports his slave as long as he is able, and when he is no longer possessed of the means, he gives him his dismissal, and the slave has recourse to some work for his subsistence. He is not sold together with a Zemin-darry or Talookdarry".

"Dewan Bowanny Miter's report of the custom of Burdwan with regard to slaves.—Any child, whether male or female, which is born of a slave, is supposed to belong to the house, and serves the master. He receives no wages, but only clothing and what is required for his necessary expences. The children born as above, cannot be sold either by the parents or by the master. A slave is to do whatever his master orders him, and he receives no extraordinary wages for cultivating the land".

“ Joyaram Chowdry, Aumen of Bishenpore. Received 31st July 1774.—When any person has purchased a slave, it is customary here for the slave to serve him, and also for any child which the slave may have. Since it is ordered that the grand-child shall be free, I will publish the order that it may be observed in future. There are no Talookdarries in this district.”

“ Ram Chunder Bose, Suzawal of Pachcat. Received 31st July 1774.—Uses the same words.”

“ Pud Lochun, Naib of Beerbhoom. Received 30th July 1774.—I have received your perwanna, and enquired of all the men in this district who are most capable of giving me information respecting slaves. The Law does not permit the absolute purchase of slaves, but their father and mother being willing, they may give a written contract to serve a man for the term of 50 or 60 years, in consideration of a sum of money. The master may within the time limited employ them in cultivation, or order them to execute any business. In case of the sale of a Talookdarry, the slave is not considered as a part of the purchase, but continues to serve his old master. If the master is in debt and has no other means of paying, he may make over the service of the slave to the creditor till the term limited in the contract is expired, he being considered as part of the effects belonging to the house. After the expiration of the time limited in the contract, it is at his option either to leave his master or stay with him. Force must not be used to detain him. I have published the HOOKUMNAMA which you have enclosed.”

By the Moorshedabad Council the Circular was read on the 21st July, when it was—“ Ordered, that the Secretary do publish an extract as far as relates to the prohibition of retaining the children of slaves after the first generation, and that the Dewan be directed to make enquiry into such particulars as are pointed out for investigation. And on the 28th of the same month they informed the Government thus; “ Your subsequent orders regarding the sons of slaves have been published, and shall be duly enforced.”

The letter addressed to the Dacca Council was read by them on the 21st July, when it was—“ Agreed it lay for consideration.”

By the Patna Council it was read on the 25th July, and it was—“ Ordered that the Board's Regulation prohibiting the right of masters over the children of their slaves to extend further than the first generation, be made public, and that we procure as particular an account as possible of the Laws and usages which have heretofore obtained in this Province.”

On the 4th August, “having made enquiry into the usage of slaves in this Province”, they thus address the Government. “ We have published your commands of the 12th ultimo, that the right of masters over their slaves should not extend beyond the first generation”; and after stating the result of their enquiry regarding the state of Slavery within their division, they observe in conclusion: “ On the whole we do not imagine that alterations in the usage of slaves will be attended with any consequences of moment to the cultivation or revenue of this Province.”

The Government of Bengal reported their proceedings on this subject to the Hon'ble the Court of Directors in a Despatch dated the 18th October, 1774, in which they remark : " We cannot doubt that the motives of policy and humanity which influenced this Regulation will meet with your approval ; but we would wish also to be favored with your sentiments and orders on the subject to regulate our conduct, when we shall receive the reports called for from the Provincial Councils of the state of Slavery throughout their districts ; some of those have been already received, others are still expected."

We have not been able to discover, either that any instructions were received from the Court of Directors in reply to this Despatch, or that any subsequent Resolutions were taken by the Government of Bengal on the subject.

Supposing then these Regulations never to have been repealed, (and we have found no trace of a repeal,) as soon as the generation of slaves existing in 1774, and the generation next to that, have passed away, Slavery is legally extinct throughout the provinces of Bengal and Behar, with the exception of those districts where Slavery was in general usage, or any way connected with, or was likely to have any influence on the cultivation or revenue. And throughout Bengal and Behar, including those districts, the sale of free persons into slavery has been illegal ever since the 1st July 1774.

It is difficult to say in what light the Courts would now regard these Regulations. We collect that it is extensively believed that Slavery has been abolished by the British Government, and the coincidence of this belief with the actual continuance of Slavery has nothing in it extraordinary when the manner of the abolition is known. There may be a few slaves still living who were born before 1774. There may be many still living who are the children of such slaves. It is probable moreover that the particular provisions of these Regulations would be forgotten before any person was born free by virtue of those provisions, and therefore that no person has ever de facto been exempt from slavery in consequence of their enactment.

There is distinct evidence that these Regulations were considered to be in force eleven years after the date of them. Mr. Day, the Collector of Dacca, in a letter dated the 2d March 1785, conveying to the Committee of Revenue information of a trade which had lately been established between the low caste Portuguese at that place, and those of Calcutta, Chinsurah, and other foreign settlements, consisting in the purchase of children for the purpose of exportation, proposed that orders should be issued to the Custom Masters to secure all boats laden with children, as it might be the means of " tracing the concern to the principal, who, as acting in open defiance of the public and long established orders of Government, might be brought to justice." He stated also that he had placed in confinement, until the receipt of the Committee's orders, certain persons with whom he had discovered 42 children for sale. On the 14th of the same month the Committee submitted to Government the measures they had judged it " expedient to recommend to Mr. Day for the apprehension and prosecution of the persons guilty of so flagrant a contempt and violation of the orders of Government." These were approved by Government on the 9th September following, who directed that " in future the utmost diligence should be used to prevent the trade of children being carried on."

It is worthy of mention also that Sir W. Jones in his charge to the Grand Jury of Calcutta in June 1785, recognizes the existence of this Law:—"Many of you, I presume, have seen large boats filled with such children, coming down the river for open sale at Calcutta; nor can you be ignorant that most of them were stolen from their parents, or bought, perhaps, for a measure of rice in a time of scarcity, and that the sale itself is a defiance of this Government, by violating one of its positive orders, which was made some years ago, after a consultation of the most reputable Hindus in Calcutta, who condemned such a traffic as repugnant to their Sastra."

Four years later we find Lord Cornwallis writing to the Court of Directors on the subject of mitigating or abolishing Slavery. The 30th and 31st paras. of his letter, which is dated 2d August 1789, are as follows:—

"There are many obstacles in the way against abolishing Slavery entirely in the Company's dominions, as the number of slaves is considerable, and the practice is sanctioned both by the Mahomedan and Hindoo Laws."

"I have, however, a plan under consideration, which I hope to be able to execute without doing much injury to the private interests, or offering great violence to the feelings of the natives, and which has for its object the abolition of the practice under certain limitations, and the establishing some rules and regulations to alleviate as much as may be possible, the misery of those unfortunate people during the time that they may be retained in that wretched situation."

And in a Despatch from the Governor General in Council to the Court of Directors, dated eight days subsequently (10 August), informing them of the issue of a Proclamation against the purchase or collection of natives for the purpose of exporting them as slaves, it is stated (para. 100),—"Further regulations against Slavery in the internal parts of Bengal and Behar have been devised, with the consent and approbation of the Judges of the Supreme Court; but we have thought it necessary previous to adopting them, to transmit a copy thereof to Mahomed Reza Cawn, the Naib Nizam, that we may receive his opinion on a point of much importance, whether they militate in any respect with the Laws and licensed usages of the country."

In the collection of papers from which we are quoting it is said, that no further notice of the plan here adverted to by His Lordship has been traced upon the records of the Bengal Government.

No further legislation took place upon the subject of Slavery, till the year 1811, except the provisions already referred to in p. 128 of the Digest of Bengal Slavery, which annul the exemption from Kissas or retaliation sanctioned by the Mahomedan Law in certain cases of wilful murder of a slave.

By the 2d and 3d Sections of Regulation X of 1811, "the importation of slaves whether by land or by sea into the places immediately dependant on the Presidency of Fort William" was prohibited and made penal. But the generality of these expressions was considerably restrained by a Construction which the Court of Nizamut Adawlut put upon them within a year after the Regulation passed. The correctness of the view taken by the Nizamut Adawlut on this subject has been questioned both by Government and the Home Authorities, though by reference to the records of

Government it appears to be in accordance with the intention of those who framed the Law. The history of the Construction is as follows.

It was first put forth in a letter from the Register of the Court to the Acting Magistrate of Zillah Agra. "The Court adverting," says the Register, "to the title and preamble of the Regulation in question, and to the bond required by Section 5, understand the provisions in it to be applicable only to the importation of slaves, for the purpose of being sold, given away, or otherwise disposed of." It appears by an extract from the Bengal Judicial Consultations of the 16th May 1812, that the Governor General in Council concurred in the Construction thus given by the Court. In Oct. 1814 the letter containing the Construction was made a Circular Order by the Nizamut Adawlut.

In the interval, however, between the date of the letter containing the Construction and the date of its promulgation in the shape of a Circular Order, the Government seems to have changed its opinion on the point. For in the course of a correspondence with Sir C. Metcalfe, relative to a Proclamation of his, making punishable any person who should "import and sell slaves", Mr. Dowdeswell, Chief Secretary to Government, writes thus on the 6th March 1813, (paras. 3 and 4).—"On recurring to the terms of that publication (the Resident's Proclamation), the Governor General in Council observes, that the prohibition against the purchase and sale of slaves is absolute. The prohibition regarding the importation of slaves is much less so, it being stated, that if any person 'shall import and sell,' &c. The offence of importing would not therefore be complete, nor consequently liable to punishment, unless a sale took place of the imported slaves. In both these respects, therefore, the tenor of your Proclamation differs from the provisions contained in Regulation X 1811, which prohibits the importation of slaves into the British territories in the most general and comprehensive manner possible, but is silent as to the sale of slaves." And again in para. 8:—"It will still remain to modify the tenor of the Proclamation issued by you under date the 4th of September last, so as to render the prohibition of * the importation of slaves into places subject to your control, absolute, as is done with respect to the other parts of the British territories, by Section 2 Regulation X of 1811." And accordingly in the amended Proclamation it is not importation and sale, nor importation for the purpose of sale, but importation simply which is made penal.

In September 1815, Mr. W. Leycester, in a Report dated the 18th of that month, argues against the Construction of the Nizamut Adawlut, and cites cases to show that the practice had not been in conformity with it. The Court of Nizamut Adawlut in their remarks upon this Report on the 12th June 1816, say (para. 49).—"The Court do not think it proper to offer any opinion upon the particular cases stated by Mr. Leycester without having the proceedings before them, but observe, that in any cases brought before the Courts of Circuit, wherein it may appear that the Magistrates have not correctly understood the provisions of Regulation X 1811, as construed by the Nizamut Adawlut, it is their duty to inform and instruct the Magistrates."

* The words "the prohibition of" are not in the printed copy of Mr. Dowdeswell's letter, but the sense evidently requires them, or something equivalent.

In the Proceedings of Government, dated the 14th February 1817, "The Governor General in Council," it is said, "is disposed to think that the Circular Orders of the Nizamut Adawlut, under date the 23d of April 1812, have narrowed the proper construction of Regulation X 1811, and he concurs with Mr. Leycester in the general reasoning on which he has founded his opinion, that the intent of the enactment was to prohibit the importation of slaves altogether, and not merely the importation of slaves ' for the purpose of being sold, given away, or otherwise disposed of.'"

The Court of Directors, in a letter to the Governor General in Council in the Judicial Department, dated 26th April 1820, express themselves thus (para. 57) : "It appears then that on the 6th of August 1811, a Regulation absolutely and strictly prohibiting the importation of slaves, was enacted by your Government; that on the 23d of April 1812, a Circular Order of the Nizamut Adawlut restricting the prohibition to importation for sale, was submitted to your Government and distributed to the Provincial Courts; that this Circular Order was known and acted on in some districts, while only the original Regulation was known and acted on in others; that the original Regulation was as usual transmitted to us, but that we were left in total ignorance of the Circular Order; that though the Circular Order was submitted to your Government, it does not seem, notwithstanding its discrepancy with the Regulation, and with your intention in enacting it, and notwithstanding the very great importance of the subject, to have been in any manner adverted to by you till your attention was called to it by one of the Judges of Circuit; and that from the 23d April 1812 to the 14th February 1817, a period of nearly five years, a Circular Order of this vital importance, superseding a Regulation and possessing all the authority of a Regulation, which you would not have enacted, and which we should not have approved, was allowed to remain in force without notice on your part, and consequently was never brought to our knowledge."

The Circular Order of the Nizamut Adawlut was, however, never rescinded, and five years later we find the Government directing one of its Officers to act upon it. The occasion of this direction was an application to Government made by Mr. D. Scott, Commissioner at Rungpore, on the 3d July 1825, to be informed whether certain slaves brought from Assam to Rungpore, and intended *bonâ fide* for domestic service were within the provisions of the Regulation X of 1811. The Commissioner appears not to have heard of the Circular Order, or else to have thought it was no longer in force, as he does not allude to it. The only difficulty he felt was whether Assam was or was not to be considered a foreign territory. The answer of the Chief Secretary to Government, dated 21st July 1825*, is as follows :—"I am directed by the Right Honorable the Governor General in Council to acknowledge the receipt of your letter of the 5th Instant. The construction which has been given by the Court of Nizamut Adawlut to the provisions of Regulation X 1811, and which was communicated to the several Courts of Justice in a circular letter dated the 5th October 1814, seems sufficient to meet the difficulties adverted to in your letter, and to render it unnecessary that Government should at present determine whether Assam is or is not to be considered as a foreign territory. A copy of the Circular Order in question is enclosed in this letter."

* 1815 by mistake in the printed copy.

The next legislative measure on this subject is the Proclamation of Sir Charles Metcalfe when Resident at Delhi, issued in 1812. We have already had occasion to allude to this Proclamation in discussing the Construction of Regulation X of 1811. The Proclamation, as we have already stated, prohibits the importation of slaves for any purpose, (except when authorized by the Resident,) and in so doing it was thought by the Government to be in accordance with Regulation X of 1811. It is at variance, however, with the Construction of the Nizamut Adawlut, and with the subsequent Regulation III of 1832, (to be presently noticed,) which was intended by its framers to be in accordance with Regulation X of 1811. Sir Charles Metcalfe's Proclamation also prohibits and makes penal, the sale and purchase of slaves in the territory of Delhi. The Law regarding Slavery became, therefore, by force of this Proclamation different in that territory from what it is in any other part of British India.

From the 2d Vol. of Slavery in India pp. 37-43 it appears, that in several cases slaves who had made their escape from the palace at Delhi, have been liberated by the Judicial Authorities under this Proclamation, and that in two cases which were brought to the notice of Government and the Court of Directors, that course has received the sanction of those authorities. The two last of these cases occurred in the year 1828. Since that period the terms of the Proclamation seem to have been forgotten. But the practice of the Courts has not on that account relapsed into what it was before the Proclamation. On the contrary, it has gone much beyond the terms of that instrument. For the local Judicial Functionaries believe, and act upon the belief, that Sir C. Metcalfe altogether abolished Slavery in the Delhi Territory.

The next legislative measure, and the last which has been enacted on the subject, is the Regulation No. III of 1832. This Law, as appears by its Preamble, was passed "in consequence of the extension of the possessions held under the Presidency of Fort William, subsequent to the enactment of Regulation X of 1811," and because "a doubt had arisen whether the provisions of that Regulation could be held to apply to cases of slaves removed from any part of the British possessions acquired subsequently to the passing of that Regulation, into any part of those then held under the said Presidency," and also, as the Preamble goes on to say, "with a view to the entire prohibition of the removal of slaves for purposes of traffic from one part of the British territories to another." Accordingly in the enacting part all slaves who subsequently to the enactment of Regulation X of 1811 have been or may hereafter be removed by sea or land for purposes of traffic from any country, &c. into any province now dependent or that may hereafter become dependent on the Presidency of Fort William, &c. or may have been or may be so removed from one province that now is or may hereafter become dependent, &c. are declared free. And any person concerned in the sale or purchase of a slave, knowing him to have been so removed, is made liable to six months imprisonment, and a fine not exceeding two hundred Rupees.

Except in the territory of Delhi therefore, the Law is such as, according to the Court of Directors, the Government would not have enacted in 1811, and such as the Court would not have approved. Except in the territory of Delhi, slaves may be imported into this Presidency by land for any purpose except that of traffic.

The orders of a legislative kind affecting Slavery in the Saugur and Nerbudda Territories, Kumaon, Assam, and Prince of Wales' Island, are sufficiently described in the parts of the Digest relating to those places. (pp. 144. 149—152. 160. 174. 176—7.)

With respect to the Presidency of Madras, it has been already stated in the Digest, that it was proposed by the Governor General in Council that a Regulation containing provisions corresponding to those of the Bengal Regulation X of 1811, should be passed there, but that this suggestion was not adopted. We have only to add that there is no Regulation in the Madras Code which contains any provisions on the subject of Slavery, except Regulation VIII of 1802, in which is prescribed a modification of the Mahomedan Law, corresponding with that previously prescribed by the Bengal Code, rendering a master liable to capital punishment for the murder of his slave, notwithstanding that Kissas is barred by the relation between them, under that Law ; and Regulation VI of 1829, which overrules certain personal exceptions to witnesses and prosecutors recognized by the Mahomedan Law ; among others the exception to servants or slaves of the prosecutor.

We have noted that Regulation II of 1812 of the Madras Code contained a Clause prohibiting, under a penalty, the exportation of slaves from Malabar by sea, which was rescinded by Regulation II, of 1826, as unnecessary, and inconsistent with the Act 51. Geo. III c 23. The Preamble of this Regulation, we have also remarked, declares generally, that the said Act “ contains provisions for the punishment of the offence of carrying away or removing from any country or place whatsoever, any person or persons, as a slave or slaves, or for the propose of being sold or dealt with as a slave or slaves ;” but it is not followed by any enactment authorizing the District and Provincial Courts to give effect to them.

The course of legislation on the subject of Slavery in the Bombay Presidency we have found it convenient to trace in the Digest, and we have nothing to add to the relation there given.

OBSERVATIONS.

According to our plan we should now present a view of what appear to us generally to be the distinguishing features of the Slavery of this country, and point out the evils which belong to it, and the remedies required to remove or alleviate them.

But unfortunately we are not unanimous in our sentiments on these points. And we have expended so much time in the vain endeavour to reconcile our differences, that, to avoid further delay, we are induced to send up the sequel of our Report in a form which is unusual, and which is not that which we should have adopted had we foreseen what has occurred.

In the arrangements we made for the preparation of the Report the portion which follows fell to one of our Members, who is in the minority upon the subjects on which we differ. His Draft therefore contains the views which, after much anxious discussion with their colleagues, appear to the Minority just and correct.

Instead of recasting this part of the Report so as to make it express the views of the Majority, we prefer at this late period, to send it up to Government as it now stands, and to subjoin to it a statement of the points on which the Majority dissent from Mr. Cameron and Mr. Millett, and of the Recommendations which they deem it proper to offer on the points of difference.

We will now endeavour to point out the distinguishing features of Indian Slavery, and the evils which belong to it. For this purpose it should be compared with, and distinguished from those conditions of the human race which in other countries have been called by the same name.

It may be distinguished by very remarkable differences from both of the well known types of Slavery, that is to say, the Slavery of the ancients, and the modern Slavery of the West Indies and of North America.

There have been two principal and steadily operating causes of those frightful abuses of power which have made the very name of Slavery hateful.

The first of these causes seems to have operated more generally in modern than in ancient Slavery, and more powerfully in the West Indies than in the Southern States of North America.

The West Indian slave was, the American slave still is, part of his master's agricultural stock, bought or bred like a horse or an ox, for the purpose of pecuniary profit. As such a slave has no motive but the fear of punishment to yield his assistance in the endeavour to extract a surplus produce from the soil, it is necessary to the accomplishment of that object, that the fear of punishment should be kept in a state of great intensity by the actual application of it.

Hence have resulted occasional acts of dreadful cruelty, and generally a most undesirable relation between the class of employers and that of labourers. These acts of cruelty, it is true, have been the acts of only a few individuals, but the guilt of them has always in some degree been spread over the whole body of slave-owners, because that body feeling that its pecuniary interests are at stake, has always been disposed to palliate offences against slaves, and to screen the offenders from punishment. The same cause has disposed the slave-owners to resist every legislative limitation of their power. They have looked upon every such limitation as tending to endanger the amount of their profits.

The motive then for becoming a slave-owner was pecuniary gain; motive for becoming a slave there was absolutely none at all. The African was brought into the condition by mere fraud or violence, or by a combination of both. It is true that the above description does not altogether apply to domestic Slavery. But the object which gave rise to West Indian and American Slavery was the desire of making fortunes, first by mining operations in the Spanish Colonies, and afterwards by the extraction of a surplus produce from the soil in our own. Had it not been for that object the Slavery of the West would never have come into existence. The domestic portion of it was a mere offset from the agricultural.

This is the first of the two causes abovementioned, and it seems to have acted with greater force in the British West Indies than in the United States. The reason of the difference appears to be, that the estates in the Islands were generally managed by hired agents, those on the continent by the owners themselves. The agent comes from his own country to make a fortune and return with it. The owner is a country gentleman living on his estate, and in him the desire of gain is comparatively weak.

In the ancient world this cause must have operated less generally, because so much larger a portion of the slave population was kept for purposes having no immediate connection with pecuniary profit.

Dr. Taylor, in his *Elements of the Civil Law*, after mentioning some instances of the great number of slaves possessed by individuals, adds, "More surprising still is the account in *Athenæus*, that several private people in Rome had slaves to the number of ten or twenty thousand of their own, and some a greater number still; and to obviate an objection he was aware of, he subjoins that they were not stock in trade, but retained for state and luxury."

In the agricultural and manufacturing enterprises, however, which were carried on among the ancients by means of slave labour, the constant motive to severity must have been in full operation.

The effect of this constant motive to severity on the part of the master has been aggravated in these instances by the want of motive to exertion on the part of the slave. With respect to the Negro, it has been said that he is constitutionally idle. This may possibly be true: but we believe that the transatlantic Negro would have been idle whatever might have been his constitutional tendency. For he never felt the stimulus of actual or apprehended want. As far as he could see, subsistence for himself and his family was always to be easily obtained from the soil, and there can have been no reason why he should ever have looked upon his status of slavery as something for the preservation of which it was worth his while to make painful exertions.

To this feature of Slavery scarcely any resemblance can be perceived in the status which is here called by that name.

There are, it is true, in Malabar and in the Tamil Country a great number of slaves employed in agriculture, and there are a few so employed in other parts of India. But the object of the proprietor is, in the present state of society, to maintain himself, his family and his slaves, by the produce of the land, not to accumulate a fortune out of the surplus. And in the greater part of India it is not production at all which induces men of property to acquire and to retain a troop of slaves. They like to have slaves because they like to have hereditary domestics and dependants. The possession of them is a mark of affluence and station in society. A large retinue of slaves is part of the pomp with which the great men of the country delight to surround themselves. They have great reluctance to sell their slaves; the same sort of reluctance which a man has to sell his family estate. They often retain them after their maintenance has become a burthen. The name and form of Slavery too is kept up after the substance has passed away. The master very seldom emancipates his slave, but rather desires him to seek his own livelihood, discharging him from all duty except that of attending upon occasions of ceremony.

Nor on the part of the slaves is there any general desire for freedom. On the contrary the advantages, such as they are, which belong to the condition of a slave, seem to be too highly appreciated by the servile classes.

There is nothing indeed in the status called Slavery in this country more remarkable or more characteristic than the fact, that it has so frequently a voluntary origin.

Mr. Bentham, in the Chapter upon Slavery in his *Principles of the Civil Code*, makes the following observations, which are very just in themselves, and which will illustrate by contrast this portion of our subject.

“It is absurd to reason on the happiness of men, otherwise than with a reference to their own desires and feelings. It is absurd to seek to prove by calculation, that a man ought to be happy when he finds himself miserable, and that a condition into which no one is willing to enter, and which every one desires to leave, is in itself a pleasant condition, and suited to human nature. I can easily believe that the difference between liberty and slavery is not so great as it appears to be to some ardent and prepossessed minds. Being accustomed to the evil, and much more, never having experienced the better condition, the interval which separates these two conditions, which at first sight appear so opposed, is greatly diminished. But all reasonings upon probabilities are superfluous, since we have proofs of the fact, that this condition is never embraced from choice, but, on the contrary, that it is always an object of aversion.”

Now the condition which in India passes under the name of Slavery, is not always an object of aversion, and it is frequently embraced from choice. The people who sell themselves or their children into slavery, may make a false calculation, they may act upon a mistaken view, but there is no question that they do act upon their own view of the interests of themselves or their children. It may be right to prohibit such transactions. But a Law for that purpose must be supported by very different reasons from those which called for the abolition of the African Slave Trade. Such a measure would be much more analogous in its principle to the Laws against usury, or the Law which makes the contracts of a minor voidable, than to the Statute abolishing the African Trade. It would be a measure to protect people against the imprudence of themselves or their natural guardians, not against the fraud or violence of strangers.

The voluntary or quasi-voluntary origin of Slavery as defined by Hindu Law, stamps a character of mildness upon the institution.* Men do not give up their

* Sir W. Blackstone giving an account of the various ways in which Slavery might originate by the Roman Law, has these words:—“But, secondly, it is said that Slavery may begin *jure civili* when one man sells himself to another.” And if the notion which this statement is calculated to convey, were a correct one, it would, considering the extreme severity of Roman Slavery, go far to invalidate the argument in the text. But the truth is, at least so far as we have been able to ascertain it from the books within our reach, that one man did not, *jure civili*, become the slave of another in the performance of a contract of self-sale. Such a contract would have been of no effect.

“*Nec si volens scripsisses, servum te esse, non liberum, præjudicium juri tuo aliquod comparasset; quanto nunc magis quum eam scripturam dare compulsum te esse testaris?*” Cod. 7. 16. 6.

Again, “*Liberos privatis pactis vel actu quocumque administrationis non posse mutata conditione servos fieri, certi juris est.*” Ib. 7. 16. 10.

But the transaction which really did sometimes take place among the Romans, and which Blackstone alluded to in the above misleading expression, was a fraudulent and a very remarkable one. A freeman

children and whole posterity, still less do they give up themselves, to a condition of hopeless oppression. It is true that the origin of legal Mahomedan Slavery is violent. The infidel taken in battle and his progeny are the only lawful slaves according to the Law of the followers of Mahomed. But Slavery derived from that origin is probably of very limited extent, if it exists at all. The Slavery which has sprung up since the conquest among the Mussulmans of this country, is Slavery originating in modes sanctioned by Hindu Law or by custom, but not by Mahomedan Law.

It is true also that among the modes in which Slavery may originate according to the Hindu Law, captivity in battle is one. But it is curious to observe that even in this, the only legal Hindu origin of Slavery which is tainted with violence, the formal consent of the conquered party was necessary to his becoming a slave. The captive of a Hindu did not become ipso facto the slave of his conqueror, as in the Roman and Mahomedan Law.

"Jure gentium," say the Pandects after Marcian, "*servi nostri sunt qui ab hostibus capiuntur.*"

"In the opinion of the generality of lawyers," says the Mahomedan Law Officer cited by Mr. Macnaghten in his work on Mahomedan Law, "mankind becomes a subject of property, solely by reason of infidelity and residence in a hostile country, joined to the fact of subjugation."

The language of the Hindu Law is somewhat different. Menu having enumerated among his seven sorts of slaves, "one made captive under a standard," Jagannatha thus comments; "as in the chapter concerning Virat (in the Mahabharatt) Bhimasena thus bespoke a King, called Suseema, vanquished during the war which arose from the seizure of a cow on the south of Virat; Fool! if thou desirest life, hear from me the conditions: thou must declare before a select assembly and before the multitude—'I am a slave.' On these terms will I grant thee life—this is a settled rule for him who is conquered in battle." "Consequently", the commentator continues, "since Bheema requires his declared acquiescence, one who agrees to it becomes a slave; not every person conquered in battle."

The difference no doubt is little more than a formal one, since few would refuse to declare their acquiescence under such circumstances. Yet that the Law should

representing himself as a slave, conspired with another who represented himself as the master, the object being to defraud the purchaser and divide the price between them. To punish and repress this kind of fraud, it was provided by a *Senatus Consultum*, that the person pretending to be a slave, should really become one.

The kind of sale in question is thus shortly described in the *Institutes* as an instance of the modes in which a man might become a slave *jure civili*. "*Cum libet homo major viginti annis ad pretium participandum sese venundari passus est.*" Inst. l. 3. 3.

Heineccius in his *Antiquities of the Roman Law* expresses himself as follows: "*At hic miræ fraudes. Solebant enim adolescentes male feriati seipson aliis vendendos dare, pretii participandi causâ, ac deinde proclamare ad libertatem Quare Sc'o denum cautum est ut qui essent majorennæ, seque pretii participandi causâ, venundari sibiissent, in servitute manerent.*" Vol. 2. 96.

See the same writer in his *Recitationes* 56, and Vinnius in his *Commentary on the Institutes* 28.

require the formality of an express consent in a transaction substantially based on violence, appears to us to illustrate strongly the Hindu notion of Slavery. The right of the master in this case depends upon consent under duress, (not an illegal duress however,) but still upon consent as its efficient cause. In all the other modes in which free persons become slaves according to strict Hindu Law, the right of the master springs from the consent without duress of the slave.

It is the common opinion that the parent in selling his child, is generally seeking what he in good faith supposes to be its interest. In the 3rd volume of Harington's Analysis there are some observations of Mr. H. T. Colebrooke which confirm this opinion. "During a famine or a dearth, he says, parents have been known to sell their children for prices so very inconsiderable and little more than nominal, that they may in frequent instances have credit for a better motive than that of momentarily relieving their own necessities, namely, the saving of their children's lives by interesting in their preservation persons able to provide nourishment for them. The same feeling is often the motive for selling children when particular circumstances of distress, instead of a general dearth, disable the parent from supporting them. There is no reason to believe that they are ever sold from mere avarice and want of natural affection in the parent: the known character of the people, and proved disposition in all the domestic relations, must exempt them from the suspicion of such conduct: but the pressure of want alone compels the sale, whether the immediate impulse be consideration for the child, or desire of personal relief."

That the condition is not an object of aversion has been very lately shewn by the remarkable experiment of emancipating the slaves who came into the possession of our Government upon the deposition of the Rajah of Coorg. We have given an account of this experiment in a former part of this Report (pp. 244. et seq.). It has there been shewn, that of 1115 slaves who were emancipated by Government, a great majority have re-entered the service of their former masters or have attached themselves to Ryots as domestic servants, that they are maintained very nearly if not precisely on the same footing as they formerly were, that they live with the slaves of the establishment to which they belong, are allowed the same rations and are required to work the same number of hours, that some have stipulated for a payment in money of from 2 to 4 Rupees a year instead of clothing, but that the greater number receive the same allowances and are otherwise treated exactly as if they continued slaves. That it is said that many have destroyed their certificates of freedom, and have bound themselves to continue for life in the service of their masters on condition of being maintained, as slaves are, in their old age, or when unable to work from illness; and that others have done the same in order to procure the means of getting married, or to obtain the consent of masters to their marrying female slaves of their establishment.

We believe, then, that there is a motive operating extensively upon the lower classes in India, inducing them to enter into the condition of slavery, and to continue in it from choice; and in this respect the Slavery of India is much more analogous to Pauperism than to the Slavery of the ancients or of the western world. In one respect it is a less pernicious institution than Pauperism had become in England before the late reform. Before that reform the pauper set a high value upon his status, but he had a legal right to it of which nothing could divest him.

The parish could not like the slave-owner cast off its burthen by an act of emancipation. The pauper therefore did not exert himself for the sake of earning the good will of the parochial authorities, as the Indian slave does for the sake of earning the good will of his master. Again, the parish could scarcely ever be reduced to absolute ruin, and even if it were, the paupers, by rates in aid, might be quartered upon other more fortunate parishes. The pauper therefore did not exert himself to keep his parish in a flourishing condition. But the Indian slave, knowing that his master's income, which is the fund he looks to for the support of himself and his family, is dependent upon the industry of himself and his fellows, and knowing that there is no rate in aid to supply the deficiencies of that fund, may be expected to labour, and it is said really does labour, like one interested in the result.

The moderate demand, then, which the master makes upon the sweat of his slave's brow, and the interest which the slave feels in complying with that moderate demand, exclude the necessity of the cart-whip, and no such instrument is ever carried into the fields to remind the slaves why it is worth their while to work.

The other steadily operating cause of oppression is fear of the slaves. The Romans felt very intensely the dread of a servile war; "*totidem esse hostes quot servos*," is an expression of Seneca; and much of the treatment of their slaves corresponded with that view of the case.

But in the slaveholding States of North America there is not only the dread of a servile insurrection, but the dread of a civil war of the most ferocious kind, if Slavery should be abolished.

The Chapter in M. de Tocqueville's excellent work on Democracy in America, entitled "Position occupied by the Black Race; dangers with which its presence threatens the Whites," is very instructive upon this subject.

"We must carefully distinguish, he says, two things: Slavery in itself and its consequences."

"The immediate evils produced by Slavery were nearly the same among the ancients as they are among the moderns; but the consequences of these evils were different. Among the ancients the slave belonged to the same race as his master, and was often better educated and more enlightened. Nothing but liberty separated them; liberty being given, they readily mixed together."

"The ancients, then, had a very simple mode of delivering themselves from Slavery and its consequences; this mode was emancipation; and as soon as they made a general use of it, they succeeded."

"It is true that in antiquity the traces of servitude subsisted for a time after servitude was destroyed."

"There is a natural prejudice which induces a man to despise one who has been his inferior, for a long time even after he has become his equal; to the real inequality produced by fortune or by law, there succeeds always an imaginary

inequality which has its root in manners : but among the ancients this secondary effect of Slavery had a limit. The enfranchised slave so strongly resembled men of free origin, that it soon became impossible to distinguish him in the midst of them."

"What was most difficult with the ancients was to modify the law ; with the moderns it is to change the manners, and the real difficulty for us begins where it ended in ancient times."

"The cause of this is, that among the moderns the immaterial and fugitive fact of Slavery is combined in the most unfortunate manner with the material and permanent fact of difference of race. The remembrance of Slavery dishonours the race, and the race perpetuates the remembrance of Slavery."

"No African has come freely to the shores of the New World ; whence it follows that all who are now there are either slaves or freedmen. Thus the Negro, together with existence, transmits to all his descendants the external sign of his ignominy. The law can destroy servitude ; but only God can cause the trace of it to disappear."

"The modern slave differs from his master not only by liberty but by origin. You may set the Negro free ; but you can never place him, in relation to the European, in any other position than that of a stranger". Vol. II. pp. 349-50.

M. de Tocqueville then goes on to shew, that in those States of the Union which have abolished Slavery, the Negro is, through the hostility of the white population, excluded practically from the privileges to which he is entitled by Law. He thinks that the white and black races can never form one people, and he informs us that this is also the opinion of the whites in the Slave States.

To this opinion of the whites, and to the feelings which accompany it, is to be attributed, according to M. de Tocqueville, the miserably debased condition of their slaves.

"The legislation of the States of the South in respect to the slaves, presents in our days an unheard of species of atrocity, which of itself makes manifest some profound disturbance in the laws of humanity. It is sufficient to read the legislation of the Southern States in order to judge of the hopeless position of the two races who inhabit them."

"It is not that the Americans of this part of the Union have, strictly speaking, increased the rigour of servitude ; on the contrary, they have mitigated the material condition of the slaves. The ancients knew no other resource for the maintenance of Slavery than chains and death ; the Americans of the South of the Union have discovered more intellectual guarantees for the continuance of their power. They have, if I may so express myself, spiritualized despotism and violence. In ancient times the object was to prevent the slave from breaking his chains ; in our days they have undertaken to eradicate from his mind the desire of doing so."

"The ancients fettered the body of the slave ; but they left his mind free, and permitted him to instruct himself. In this they were consistent with

themselves; there was then a natural outlet from servitude. 'The slave might any day become free and the equal of his master.'

"The Americans of the South, thinking that the Negroes can never form one people with themselves, have forbidden under severe penalties that they should be taught to read and write. Being determined not to raise them to their own level, they keep them as nearly as possible in the condition of the brutes*". Ibid. pp. 389-90.

The cause which has produced this frightful state of things has absolutely no existence in this country. It may be safely said that no Indian master ever harboured a fear that his slaves would assert their liberty by force, or that, if they were emancipated, they would form a hostile community in the midst of their former masters, prepared to contest with them the possession of the country.

It is true, indeed, that the Indian slaves are in a state of profound ignorance, but their ignorance belongs to them not as slaves, but as poor men, and as men of low caste. They are no otherwise excluded from the acquisition of knowledge than the free people who are engaged in servile occupations.

In respect of marriage there is a marked superiority in the condition of the slave of this country over both the West Indian and the Roman slave. He does not live, as the former did until the public opinion of the mother country produced a reform, in a state of mere concubinage. Nor is his union with the other sex contemptuously distinguished by name from that which takes place among free people, like the *contubernium* of the Roman Law. He is married, as all our witnesses agree, with the same rites as a freeman. So far, indeed, is there from being any disability in a slave to be married with as much ceremony as any other man, that one motive which induces free persons to sell themselves into slavery is that they may be enabled to marry. This is not because the people are provident enough to think much about their means of maintaining a family. But because it is the custom among all ranks in this country to expend upon the occasion of a marriage, a sum which, according to European ideas, is very disproportioned to their means. This expence in the case of the marriage of slaves is always paid by the master, who, as our witnesses state, considers himself as much bound to provide suitably for the marriage of his slaves as of his children.

Another topic very illustrative of the distinction to which we are directing attention, is the admissibility of slave evidence.

By the Roman Law it seems that the testimony of a slave was only to be received when no other means of discovering the truth were available. "*Servi responso tunc credendum est quum alia probatio ad eruendam veritatem non est.*" Dig. XXII. De Testibus VII. And that it was not to be received without the

* In the West Indies also there was much unwillingness to educate the slaves. But measures for that purpose were forced on them, like the emancipation itself, by the mother country.

supposed safeguard of torture. "*Si ea rei conditio sit uti arenarium testem vel similem personam admittere cogamur, sine tormentis testimonio ejus credendum non est.*" Dig. XXII. 5. De Testibus XXI. §. 2.

In the West Indies it was thought necessary for the protection of the master that the evidence of the slave should not be received against him.

We have not the means of knowing all the different restrictions which the jealousy of West Indian masters imposed upon the admission of slave testimony. But we find in a printed official letter from the Commissioners of Correspondence of the Bahama Islands to George Chalmers, Esquire, Colonial Agent, a statement of the effect which, in the opinion of those Commissioners, would have resulted from admitting slaves as witnesses in Courts of Justice against their owners: and this statement, coming from persons who were themselves slaveholders, and from a colony in which Slavery was generally thought to bear a peculiarly mild character, is perhaps more illustrative of the unhappy opposition of interests which resulted from that institution as it existed in our Western possessions, than any account of the various laws respecting slave evidence to which that opposition gave rise.

This letter was written in the year 1823, when the West Indians were apprehending some great measure in favor of their slaves, partly in consequence of a speech made by Mr. Wilberforce in Parliament, and of a Pamphlet published by him. After having remarked that Mr. Wilberforce "talks, but not always very intelligibly, of the want of an executory principle in all our laws for the benefit of the slaves," the Commissioners say, "Seriously, then, if by this same executory principle is meant, that in order to give effect to the laws in question, slaves are to be admitted as witnesses in Courts of Justice against their owners, we have only to say, that by such a measure the Colonies would very soon cease to require any laws to regulate the relations of master and servant. In less than twelve months there would be no Slavery to ameliorate, not a single slave to enfranchise, within the range of the West Indies."

Afterwards they observe, that "setting aside all objections on the score of religion, there are motives of necessary policy quite sufficient in the West Indies to prevent the life or property of a white man from being at any time jeopardized at will by the information or evidence of a slave."

Further on the Commissioners say, "there is a peculiarity in that state of society in which Slavery forms an essential ingredient which renders it impossible to put the master in any manner legitimately at the mercy of his servants, without shivering one main link in the chain of subordination, on which altogether depends the integrity of the social bond."

Now the change which these West Indian Gentlemen represented as equivalent to the abolition of Slavery, and destructive of "the integrity of the social bond," has taken place here, not only without the slightest disturbance of social order, but without the slightest apprehension of any such disturbance.

The Mahomedan Law excludes the evidence of slaves where freemen are concerned. The Hindu Law excludes it unless better cannot be obtained. But in our Courts, both Civil and Criminal, the evidence of a slave is received exactly as if he were a freeman.

The constant oppression, then, which resulted from Slavery in the ancient world, in the West Indies, and in the United States of America, is little known in India. It may even be said, that Slavery here, so long as it is confined within its legal limits, or within the limits which custom sanctioned by public opinion, has assigned to it, produces nothing which is felt as oppressive by the abject spirit of the servile classes; and that nearly all the evils (some of them of great magnitude) which have their origin in the existence of Slavery, are illegal and abusive acts perpetrated under colour of doing those things which the status of Slavery permits. If these abuses cannot be prevented otherwise than by abolishing Slavery, we should say Slavery must be abolished. But if means can be found for putting a stop to these abuses, and at the same time leaving untouched the lawful and nearly innocuous status of Slavery, then we should recommend the adoption of those means rather than the sudden annihilation of an institution which, though it bear an odious name, and could not exist where there is a high-spirited lower class, is really congenial to the habits and feelings both of masters and slaves, and which will decay and perish of itself whenever it ceases to be so.

Before, however, we proceed to point out the mischiefs which arise out of Slavery as it actually exists, we wish to call the attention of Government to the probability under existing circumstances of a different class of mischiefs springing up.

For although the hardships and oppressions endured by the West Indian and American slaves, have, generally speaking, no existence in India; it appear to us, that now the country is open to the enterprize of European Capitalists, if they are permitted to purchase and hold slaves, a system may gradually grow up not very dissimilar from that the abolition of which has cost the mother country so much money, and so much trouble in the other hemisphere.

A set of white masters working gangs of black slaves for profit, is an object which, after looking through the history of Slavery in the West, we cannot contemplate without the strongest repugnance. And in proportion to that feeling is the earnestness with which we would urge the Government to prevent, by timely interposition, the possibility of such an object being realized.

Mr. MacCulloch, a high authority upon all economical questions, seems to think, that the apprehension of such Slavery in this country is visionary. In an elaborate Essay in the *Edinburgh Review* upon the value of Colonial possessions, he thus expresses himself—"It is said, however, that Slavery exists in Hindustan as well as in Jamaica, and that by reducing the duties on East India Sugar, and facilitating its cultivation by allowing Europeans to purchase and farm land, we should not get rid of the evil of Slavery, but would be merely substituting the produce of one species of slave labor for another. Now admitting for a moment that this statement is well founded, still it is certain from the cheapness of free labor in Hindustan, that no slaves ever have been, or ever can be imported into that

country. And hence it is obvious, that by substituting the sugars of the East for those of the West, we should neither add to the number, nor deteriorate the condition of the existing slave population in our dominions."

* * * * *

"But it is much worse than idle to pretend to say, that East India sugar should not be imported, because it is raised by slaves as well as that which is imported from our Colonies in the West Indies. There is in fact no room for a comparison between the state of the slaves in Hindustan and Jamaica. The former may justly be said to be freemen when compared with the latter. Our readers are already sufficiently acquainted with the condition of the slaves in the West Indies; and the following extract from a work of Sir (Mr.) Henry Colebrooke, one of the ablest of the East India Company's servants, will serve to make them acquainted with the condition of the slaves of Hindustan. 'Slavery, says Sir Henry, is not unknown in Bengal. Throughout some districts the labors of husbandry are executed chiefly by bond servants. In certain districts the ploughmen are mostly slaves of the peasants for whom they labor; but treated by their masters more like hereditary servants or like emancipated hinds, than like purchased slaves, they labor with cheerful diligence and unforced zeal. In some places also the landholders have a claim to the servitude of thousands among the inhabitants of their estates. This claim which is seldom enforced, and which in many instances is become quite obsolete, is founded on some traditional rights acquired many generations ago in a state of society different from the present: and slaves of this description do in fact enjoy every privilege of a freeman except the name, or at most they must be considered as villains attached to the glebe, rather than as bondsmen laboring for the sole benefit of their owners. Indeed throughout India the relation of master and slave appears to impose the duty of protection and cherishment on the master, as much as that of fidelity and obedience on the slave: and their mutual conduct is consistent with the sense of such an obligation, since it is marked with gentleness and indulgence on the one side, and with zeal and loyalty on the other!'—Those, continues Mr. MacCulloch, who can find any thing in this description similar to the condition of the slaves in the West Indies, or who can found on it any argument against allowing East India sugar to be imported on the same terms as that of our Western possessions, must certainly be endowed with very peculiar means of perception, and very extraordinary logical powers."

But it surely does not follow, because a form of Slavery very different from the West Indian form, has resulted in this country from causes very different from those which have been in operation in the West Indies; it surely does not follow, that if we permit the introduction of similar causes, we are not to expect similar effects.

The Hindu or Mussulman slave under his Hindu or Mussulman master, may perhaps be said, without too violent a figure, to be a freeman, as compared with a Negro on the sugar plantation of a European master. But place the Hindu or Mussulman slave on the sugar plantation of a European master, and we do not see what security he would have for the continuance of that comparative freedom.

There is in Malabar an English Gentleman cultivating a pepper plantation with a gang of slaves. He may be a very humane man, as there were very humane men among the planters of Jamaica and Demerara. Indeed we have evidence that

Mr. Brown (for that is his name) has used every exertion for the improvement of his slaves. But it seems clear to us, that if there should ever be in India a great number of European Capitalists cultivating the soil or carrying on a manufacture with slaves, we may look for a repetition of those scenes which have disgraced our Western Colonies. We do not forget that an oppressed slave would have greater facilities of escape from a European than from a native master, on account of the sympathy of the surrounding population; and of course as far as this goes it would present a motive to the master to abstain from cruelty. This motive would not, however, we think be sufficient to counteract those of an opposite tendency, and its force would become weaker and weaker as the number of European slave Owners increased.

We think, therefore, notwithstanding what has been said by Mr. MacCulloch, that the condition of the existing slave population would be deteriorated by suffering them to pass under the dominion of European masters.* For these reasons we shall recommend in the proper place, that it shall be made unlawful for any person not of oriental race to purchase or hold a slave.

It may be said perhaps, that by the Law as it now stands, Europeans are disabled from purchasing or holding slaves. Some obscurity hangs over this subject, which cannot we fear be dispelled, if at all, without a long legal disquisition.

This question depends partly upon the more general question what is the *lex loci* of British India. That is to say, (speaking practically) what is the Law to be administered to all persons who are neither Hindus or Mahomedans. We have investigated that question to the best of our ability in a Report upon the Petition of the East Indians, sent up to Government on the 31st of October last, to which we here beg leave to refer. It will there be seen, that there is some ground for arguing, that according to the spirit of the principles which have been laid down by English Jurists, as soon as any place in India became a British Factory, English Law became the *lex loci* in that place; and that, as soon as any portion of Indian Territory became the dominion of the British Crown, English Law became the *lex loci* of that Territory. It is certainly true nevertheless, that this doctrine is inconsistent with the letter of some of the leading propositions in which English Jurists have embodied their principles. For according to the letter of those propositions, the Mahomedan or the Hindu Law would be the *lex loci* of any given portion of British India, according as one or other of those Laws obtained in that portion at the time of its coming into our possession. It may perhaps be thought, that as the Mofussil Courts decide according to equity and good conscience in all cases where the parties are not Hindus or Mahomedans, they will not recognize the right of any other person to hold a slave because it is contrary to equity and good conscience. But that is very questionable doctrine. If the Law authorize a European to hold a slave, it can

* It is curious to observe that the laudable object of procuring an equalization of the duties on sugar, seems in some degree to have coloured the opinions of those who have treated of Indian Slavery. In a paper, Art. 3, of No. 1X. of the quarterly series of the *Friend of India*, it is broadly laid down, that "Slavery is now entirely prohibited by the British Government here as really as in Britain itself;" that "in consequence of this, whatever of this nature exists at present, is conducted wholly in secret, like all other acts of injustice, robbery and iniquity;" and that "no native dares openly avow here that he holds a fellow creature in Slavery."

hardly be permitted to any Court to say, that the doing so is against equity and good conscience. A Court of equity may say, that a particular exercise of a legal right is unconscientious, but it can never be permitted to say that the right itself, and consequently every exercise of it, is unconscientious.

But even if we assume upon the present occasion for the sake of argument, that English Law is the *lex loci* of British India, there will still remain a question which is not quite free from difficulty, viz., how far a person living under English Law is prevented by that Law from having any right to the services of a slave.

The generally received opinion no doubt is, that a person living under English Law cannot be the owner of a slave. But if we put to sleep for the moment our benevolent feelings, and examine the question as a mere dry question of Law, the generally received opinion seems not to rest upon any very solid foundation.

Before the decision in the case of the Negro *Somerset* (*State Trials*, vol. 20, p. 1,) the general understanding was, that an Englishman might hold a slave any where. Lord Talbot and Lord Hardwicke, when Attorney and Solicitor General, gave it as their opinion, that a slave coming from the West Indies, either with or without his master, doth not become free, and that his master's property or right in him is not thereby determined or varied—and they were also of opinion that the master might legally compel him to return to the Plantations. And this opinion was recognized by Lord Hardwicke sitting as Chancellor on the 19th October 1749. "This judgment," says Lord Stowell, in the case of the slave *Grace*, (2 Haggard 105) "so pronounced in full confidence, and without a doubt, upon a practice which had endured universally in the Colonies, and (as appears by those opinions) in Great Britain, was, in no more than twenty-two years afterwards, reversed by Lord Mansfield. The personal traffic in slaves resident in England, had been as public and as authorized in London as in any of our West India Islands. They were sold on the Exchange, and other places of public resort, by parties themselves resident in London, and with as little reserve as they would have been in any of our West India possessions. Such a state of things continued without impeachment from a very early period up to nearly the end of the last century."

It appears, that at the time when *Somerset*'s case was decided, viz. in 1771, there were as many as 14,000 slaves in London. Lord Stowell calls Lord Mansfield's doctrine "his new doctrine," and there is no doubt, we think, that *Somerset*'s case was really, *de facto*, introductory of new Law. Of course, however, it must, *de jure*, be taken to have been merely a declaration of the old Law. But the whole effect of it is, that no man can in *England* exercise over another the rights with which the status of Slavery invests the master over the slave.

Lord Mansfield thus expresses himself—"the return states, that the slave departed and refused to serve, whereupon he was kept to be sold abroad. So high an act of dominion must be recognised by the Law of the country where it is used. The power of a master over his slave has been extremely different in different countries. The state of Slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves

its force long after the reasons, occasion, and time itself from whence it was created, is erased from memory. It is so odious that nothing can be suffered to support it, but positive Law. Whatever inconvenience therefore may follow from the decision, I cannot say this case is allowed or approved by the Law of England; and therefore the black must be discharged."

Some of these expressions do appear to go further than what we have stated to be the effect of the decision. But we have Lord Stowell's authority for our statement, fortified by that of the Scotch Judges who decided a similar case in 1778. Lord Stowell says, "the Scotch Judges have well expressed their opinions of the extent of the judgment of Lord Mansfield, in the case of *Knight v. Wedderburn* in 1778, a case argued with great ability, in which they determined the extent of this judgment to be, that the dominion assumed over the Negroes by the Law of Jamaica, could not be supported in this country." And he afterwards says, "all that the Judges in the different cases I have adverted to, have determined, is, that slaves coming into England are free there, and that they cannot be sent out of the country by any process to be there executed." p. 118. Moreover in another place, p. 107, Lord Stowell shows, that what Lord Mansfield says about the necessity of positive Law for the introduction of Slavery amounts to very little, when it is understood that custom is one of the grounds of positive Law. "Far from me be the presumption, he says, of questioning any obiter dictum that fell from that great man upon that occasion; but I trust that I do not depart from the modesty that belongs to my situation, and I hope to my character, when I observe, that ancient custom is generally recognised as a just foundation of all Law; that villeinage of both kinds, which is said by some to be the prototype of Slavery, had no other origin than ancient custom; that a great part of the common Law itself, in all its relations, has little other foundation than the same custom; and that the practice of Slavery, as it exists in Antigua and several other of our Colonies, though regulated by Law, has been in many instances founded upon a similar authority."

Now it is this instance of Antigua and of other Colonies similarly situated, which seems to us to furnish direct authority, and that of the highest kind, against the generally received opinion. The authority we mean is that of the British Legislature, sanctioning both by tacit sufferance, and by express recognition, (not by enactment,) the legality of the Slavery of those Colonies.

The Law of Antigua is the Common Law of England, so far as it stands unaltered by any written Law of that Island. The Slavery of Antigua, Lord Stowell says, "never was the creature of Law, but of that custom which operates with the force of Law." It is a most important circumstance that this Slavery was not created either by Imperial or local Legislation, but grew up by the side of the English Common Law—and that it grew up legally cannot be denied, for it is affirmed by Acts of Parliament.

In the West Indies, then, Englishmen lawfully held slaves, having themselves introduced the status of Slavery into countries where English Law was the *lex loci*, and where no other Law existed at all. How then can it be contended, that in the East Indies, where Englishmen found the status of Slavery already existing, they may not hold slaves because English Law is the *lex loci*?

It was not illegal till it was made so by Statute, for an Englishman living under English Law, to buy a slave from a Mussulman in Africa, carry him to an English Colony, where English Law, and that only, was established, and keep him there in slavery. A fortiori, it cannot be illegal (seeing that no Act of Parliament or of the local Legislature has yet made it so,) for an Englishman to buy a slave from a Mussulman in India, and keep him as a slave in that country where he has always been one.

There are two cases in which the dicta of the Judges carry the Law in favor of liberty further than it is carried by the cases of *Somerset*, and of *Knight v. Wedderburn*. It is to be observed, that the dicta we allude to were not necessary to the decision of the point before the Court in either of those cases. Though in the latter case it is true, that the very profound Lawyer whose judgment we shall quote, chose to rest his decision upon the broad ground, which, as we have said, extends beyond the cases of *Somerset*, and of *Knight v. Wedderburn*.

The first of the two cases is that of *Williams v. Brown*, 3 Bos. and Pull. 69, and Mr. Justice Rooke there says, speaking of the defendant, who was a slave in Granada, but who had made a contract in England, "though he might enter into a contract to go to any other place but to Granada, yet he could not engage to go there without danger of being detained," which expression certainly implies, that the slavery of the party could be enforced no where but within the Island of Granada.

The second case is that of *Forbes v. Cochrane*, 2 Barn. and Cress. 448. Mr. Justice Holroyd there says, "Put the case of an uninhabited island discovered and colonized by subjects of this country; the inhabitants would be protected and governed by the Laws of this country. In the case of a conquered country, indeed, the old Laws would prevail until altered by the King in Council; but in the case of the newly discovered country freedom would be as much the inheritance of the inhabitants and their children as if they were treading on the soil of England. Now suppose a person who had been a slave in one of our West India Settlements escaped to such a country, he would thereby become as much a freeman as if he had come into England."

If this be so, the first Negroes who were carried from Africa to Antigua, St. Christopher's, or Barbadoes, must have become freemen, for no Statute had made them slaves. But it is notorious that they did not become freemen, and that the legality of their slavery has been recognized by the British Legislature. Their slavery was not indeed created by the Common Law of England. But it was thought to be perfectly compatible with the Common Law of England, which was the Law of those Colonies whither they were carried.

In 1689, ten Judges, with Lord Chief Justice Holt at their head, humbly certified their opinions to be, "that Negroes are merchandize," and consequently that it was against the Navigation Act to give liberty to any alien to export them from His Majesty's Plantations.

It appears from Stokes's View of the Constitution of the British Colonies, that even after the Colonies had got Legislatures, and had made local Laws for the regulation of property in slaves, still Negroes, on their first arrival from Guinea, and as long as they remained in what was called the Guinea Yard, were not considered to be under the Law of the particular Colony in which they were landed, but were "absolutely personal estate", whatever might be the Law of the particular Colony in that respect. It was not till they were sold and taken out of the Guinea Yard that they became subject to the *lex loci*, and were considered as real, or personal, or mixed estate, according to the provisions of that Law, whatever they might be. (p. 417.)

We think, then, that these dicta of Mr. Justice Rooke and Mr. Justice Holroyd go beyond the Law in favor of freedom. But even assuming that they are to be taken as Law, they still will not reach the case of British India.

It will conduce to a clear understanding of the subject to distinguish between the disability of the person claiming to hold a slave, and the privilege of the person claimed as a slave. As it is admitted that there are persons in British India whose status is Slavery, the question, where one of these persons is concerned, must be, whether the person who claims him is disabled from having a slave.

Now it will be observed, that every one of the cases which are authorities in favor of freedom, turn upon the privilege of the person claimed as a slave. *Somerset's case*, and the case of *Knight v. Wedderburn* shew, that a slave is privileged in England and Scotland. The dicta in the cases of *Williams v. Brown*, and *Forbes v. Cochrane*, supposing them to be Law, shew, that a slave coming into any country where there is no Law but English Law, is privileged. But there is no authority whatever for saying, that a man who is living under English Law, may not become the owner of a slave in a country where there are persons whose lawful status is Slavery.

The Common Law still permits a man to be the owner of a villein in England, only there are no villeins to be found. The Common Law permitted a man to be the owner of a slave in Antigua and Barbadoes till the Statute Law made all the slaves there free. Why will not the Common Law permit a man to be the owner of a slave in British India where no Statute has made the slaves free?

The question has never been decided, as far as we are informed, in any of the Supreme Courts.

The Chief Justice, Sir Edward Ryan, has been so obliging as to cause a search to be made through the notes of cases which have been made by different Judges of the Supreme Court at this Presidency, and the only case in which the question has been raised, occurred in 1796.

" 1796."

"The case was an Indictment against a British Subject and a Mussulman woman for assaulting, wounding, and false imprisonment of two slave girls."

“ Mr. Strettell, Counsel for the British Subject, contends, that by the Mahomedan Law Slavery is permitted, and severe punishment of the slaves only short of life and limb,—that whether this country belongs to us by treaty or by conquest, the former Law remains in force, excepting as to those parts in which it has been expressly altered by authority of the King or the British Parliament—and with respect to this subject it has not been so altered in the Provinces at large* whatever may be the Law in Calcutta.”

“(N. B. Lord Cornwallis’s Proclamation as to slaves, and the Regulations of the Adawlut.)”

“ Mr. Macnaghten, 2d Counsel for the British Subject.”

“ Supposing Slavery still to exist here under the Mussulman Law, Mr. H. cannot be punished. This is now under the dominion of Great Britain, in which Acts of Parliament have given countenance to Slavery.”

“ It follows, that Slavery is not necessarily abolished by this country having come into the hands of Great Britain.”

“ A reference is made to the 21 Geo. III. Cap. 70, Sec. 18.”

“ Mr. Shaw, Counsel for the prosecution, in reply.”

“ As to the Mussulman Law, the Court will inform you, that Mr. H. is only subject to the Law of England, and the woman, if subject to the jurisdiction, is also subject to the Law of England, at least as to this fact.”

The note contains no expression of any opinion by the Court upon the point of Law. But both the Defendants were found guilty and sentenced.

As Sir Wm. Jones has adverted to the subject in his Charge to the Grand Jury in 1785, it will be proper to quote what he says.

“ It is needless to expatiate on the Law (if it be Law) of private Slavery; but I make no scruple to declare my own opinion, that absolute unconditional Slavery, by which one human creature becomes the property of another, like a horse or an ox, is happily unknown to the Laws of England—and that no human Law could give it a just sanction; yet though I hate the word, the continuance of it, properly explained, can produce little mischief. I consider slaves as servants under a contract, express or implied, and made either by themselves, or by such persons as are authorized by nature or Law to contract for them, until they attain a due age

* The crimes were committed in the Mofussil.

to cancel or confirm any compact that may be disadvantageous to them. I have slaves whom I rescued from death or misery, but consider them as other servants, and shall certainly tell them so when they are old enough to comprehend the difference of the terms. Slaves, then, if so we must call them, ought not to be treated more severely than servants by the year or by the month, and the correction of them should ever be proportioned to their offence; that it should never be wanton or unjust, all must agree."

The sum of this seems to be, that in Sir Wm. Jones's opinion, the English Law does not admit of one man having a property in another, but does admit of one man having, by contract, a right to the perpetual services of another, and of his exacting them by moderate correction. Much legal weight, however, cannot be attached to these observations notwithstanding the eminence of their author. They were made (being part of a Charge to the Grand Jury) upon a question which had not been argued, and were not even called for by any case in the Calendar. He was calling the attention of the Grand Jury to the oppressions exercised upon slaves in general in Calcutta, and so took occasion to give his opinion upon the Law. He does not argue the question at all himself, nor cite any authorities.

In the year 1813, the right of a British Subject to hold a slave in India was discussed by Mr. Austruther, then Advocate General at Madras.

The question seems to have attracted the attention of the Madras Government in consequence of certain disputes between Mr. Baber, at that time Magistrate of North Malabar, and Mr. Brown, the father of the gentleman to whom we have already alluded as the owner, *de facto*, of a considerable number of slaves.

The Advocate General, after speaking of a supposed complaint against a Mahomedan master, thus proceeds—"But if a similar complaint were preferred against Mr. Brown for violence against his slaves in Malabar, I am confident that he could not justify it. But the civil right to the perpetual service of the persons held by him in slavery, may possibly be distinguished from the right of punishment of them as slaves, and I think the question of right may be well tried, and ought to be tried in that shape. If any one of the persons now working upon the estate of Mr. Brown as slaves, be advised to instruct the Attorney for Paupers to bring an action against Mr. Brown for false imprisonment, in detaining him upon his plantation, the admission of the fact by Mr. Brown will bring before the Court the simple question of the capacity of a British subject to have a slave in India. I by no means wish to be understood to say that it is a clear point, but I think it very proper to be settled."

* * * * *

"From the importance of the point being settled, I should also propose, that by mutual consent, whatever might be the decision, it should be carried before the King in Council, as otherwise different decisions might be given at the different Presidencies, and the question be set afloat, instead of being finally settled."

It does not appear that this course was ever adopted. We also think that the point is very proper to be settled. But the Legislature is, in our opinion, the most

proper organ for settling doubtful Law, and the only proper organ for correcting unjust Law.

Indeed from what follows, the Advocate General seems to have recommended that the question should be brought before the Supreme Court at Madras, and ultimately before the King in Council, principally because there was at that time no Legislature in the country which was competent to bind the Supreme Courts.

For he goes on to say—"Supposing it to be ascertained by the highest Judicial authority, that British subjects can have property in slaves in India, it remains to be considered whether the Law ought to be left in that state: or rather, if the Government shall think it ought not, a Regulation of Government may, as to the provinces, remove the necessity of any trial or inquiry as to what is now the Law on the subject, by prohibiting the practice in future."

When we compare the ease with which the mischief we have been adverting to may be prevented from taking root, with the difficulty of eradicating it at a future period, we are disposed very strongly to recommend the enactment of a Law to accomplish the former object. Such a measure appears to be wholly free from objection. It will interfere with no existing property. There is, we believe, only one European slave-holder in British India, and his rights, whatever they may be, will not be affected by the new Law. And short of the entire abolition of Slavery, there is perhaps no measure by which the British Government can so strongly mark to its Native subjects the dislike with which it regards this institution, as one which prevents the whole European race from taking any part in it.

Perhaps it may be thought, that as we recommend in the sequel the entire abolition of the master's power to punish his slave, the cruelty of which we have been expressing our apprehension, will by that measure be as completely prevented as it can be by Law, and therefore that our present Recommendation becomes superfluous if our subsequent one is adopted. But whoever pays close attention to the nature of the two proposed Laws will perceive, that although either of them would produce the desired effect if complete obedience could be ensured, the chances of ensuring complete obedience are very different in the two cases.

In a country so vast as this, and so inadequately supplied with Courts of Justice, slaves will be beaten by their masters in spite of legislative prohibitions. But capital will not be invested by Europeans in the purchase of slaves when the Legislature has declared, that no legal right shall arise out of such purchase.

It is proper to observe, that this measure may perhaps be an impediment in the way of colonization in those districts where free labor cannot be obtained. But we have no fear that this consideration should be thought sufficient to prevent the adoption of our Recommendation.

We proceed to the mischiefs which actually exist, and the suggestion of remedies for them.

We have already said, that if the abuses which Slavery gives rise to in this country cannot be prevented otherwise than by its abolition, then Slavery ought to be abolished. But we think that the abuses can be otherwise prevented, with such a degree of certainty as to justify us in not advising the emancipation of the slaves, which would, in the present circumstances of India, be an unnecessary and very unpopular interference with the interests, as understood by themselves, both of masters and slaves.

On the other hand, we shall be careful not to recommend any measure by which the rights and obligations arising out of Slavery can be strengthened, or any measure under which any person who is not a slave according to strict Law, can possibly be treated as such by public authority. We hope that if our Recommendations are adopted no further Legislation on the subject will be necessary.

The first of the actually existing mischiefs which we shall notice is the abuse of the power of punishment, and in considering this, we shall answer the questions put to us in Mr. Officiating Secretary Grant's letter of the 27th May 1839. We have said that in the actual circumstances of this country there is no constantly operating stimulus to cruelty; but excited passion does of course give rise to occasional violence. This happens in all countries even in the relation of master and pupil, and master and apprentice. But the instances are rare in these relations, because in them the tender age of the subject party leads as well to ready submission on his part as to forbearance on the other part. The social condition too of the pupil is often superior, that of the apprentice generally equal to that of his master. And thus the master is restrained from violence by the fear of censure from those classes upon whose opinion his reputation depends, and whose sympathies are sure to be on the side of the sufferer. Now if we bear in mind that in the case of master and slave none of these restraints exist, we must conclude that the power of punishment is likely to be abused in such a degree as to overbalance any advantage resulting from it.

Again, the difference between moderate and immoderate correction is a difference in degree, and consequently the lawful is not divided from the unlawful by any line which is discernible even to the eye of calm reason, much less to the eye of inflamed anger. On the other hand, the difference between stripes and no stripes is as well marked as any difference can be, and whoever transgresses a Law founded upon it, must do so with a distinct consciousness of wrong. Neither a Law prohibiting immoderate correction, nor one prohibiting all correction, is likely to be constantly obeyed. But a Law of the latter kind has incomparably the best chance of being obeyed. For these reasons we mean to recommend that the master shall be prohibited from striking his slave.*

This change, or rather a much greater change than this, has, as will be seen from Captain Bogle's evidence, been already brought about in Assam, where Slavery abounds, and where the treatment of slaves, and indeed of all low people, by their superiors, was peculiarly unjust and severe. "Since we have had the country,"

* This subject is treated more fully in Mr. Cameron's *Minute* which accompanied our Report of the 1st February 1839, to which we beg to refer.

says Captain Bogle, "we have never permitted the masters to punish their slaves more severely than a father may punish his child."

It will be seen however by what follows, that Captain Bogle does not consider even this most moderate degree of correction to be now lawful in Assam.

"When I first went to Assam many of the principal people kept stocks in their houses, and used to put their slaves, or any poor person who offended, into them."

"Since we have been in possession these stocks are no longer permitted."

"The real motive which now induces the slave to do his work is the fear of losing the advantages of his situation."

"Cases of oppression were every now and then occurring while I was in the country, but we have always punished the oppressors whenever complaints have been substantiated."

"I do not consider that by Law the master has any power of punishing his slave by beating, but no doubt if a slave complained, and it turned out that his master had only given him a slap, the Court would scarcely think the case worth noticing."

"I think that an Act abolishing the power of punishment altogether would make no change in the Law of Assam."

We do not think that this is to put an end to Slavery.

After this measure is passed there will still remain all that is good in Slavery, or more properly all which a wise Government would not choose violently to destroy so long as both of the classes concerned desire its continuance. We admit that such a measure as this would have put an end to Negro Slavery. But if we have correctly distinguished between that form of servitude and the one prevailing in this country, nothing can be inferred from that admission as to the effect of the same measure here. Bodily pain and the terror of it were the vivifying principles of that system. The interest of the slave is the vivifying principle of this.* We do not propose to interfere with the substantive legal rights of the master. He will have in Law the same dominion over the slave, and over every thing that is earned by the slave's labour, as he had before. But he will not have the power of

* As I was one of the Law Commissioners who signed the Draft of the Penal Code sent up to Government, I am desirous of explaining in what respect the view I now take of the master's power to punish, differs from that which we took in Note B appended to that Draft.

I still entirely agree in the doctrine of that Note, but I now think it less applicable to the case of Indian Slavery than I then did. I still think that where the fear of punishment is the motive which induces the slave to work, to take away from the master the power of punishment is to abolish Slavery. But our inquiries since the subject of Slavery was referred to us, have satisfied me that the fear of punishment is not the motive which induces the Indian slave to work.

enforcing his right with his own hand. It must not be concluded that his right will be ineffectual; a slave who is well treated has no temptation to leave his master, or to neglect his duties, at least no temptation sufficient to overbalance the fear of forfeiting his right to protection and subsistence.

In announcing this Recommendation we have answered the first question addressed to us in Mr. Officiating Secretary Grant's letter of the 27th May 1839. But as various matters are suggested to us by Government in that letter as fit to be weighed in deciding the question whether the master's power of punishment should be negatived by an express Law, we now proceed to the consideration of those matters.

"It is also to be considered," says Mr. Officiating Secretary Grant, "as the Regulations for the punishment of servants do not appear to be applicable to slaves, whether, regarding such benefits as the slave may derive from his situation, it is proper that he should be placed in a much more independent condition than a servant, and be exempted from punishment of every kind and on whatever occasion."

To this we must answer, First, that we think the Regulations for the punishment of servants are not good Regulations. Upon this subject we adhere to the opinion expressed by the Law Commission in Note P to the Penal Code. If the Penal Code is adopted those Regulations will be repealed. But however that may be, as we think them not good in principle, we cannot think that the omission to repeal them is a sufficient reason for keeping up a power over slaves, which, for the sake of this argument, must be admitted to be, in itself, objectionable.

Secondly, the benefits which the slave may derive from his situation seem to be regarded in Mr. Grant's letter as a reason why he should at least be as much subject to punishment as a servant. Now in our view of the matter, it is because the slave derives benefits from his situation, that it is unnecessary to make him liable to punishment for conduct by which he would forfeit those benefits. By how much the loss of his situation would be a greater evil to the slave than to the servant, by so much is it the less necessary to present to him, in the shape of punishment, any additional motive for performing the duty which he owes to his master.

It is further observed in Mr. Grant's letter, that "it may deserve enquiry whether an objection applies to any special Law regulating the conduct of masters towards their slaves, (especially if it be thought proper that the Law should contain provisions for enforcing by a Magistrate the obedience of slaves in like manner as servants,) as implying a recognition of a state of Slavery, towards the absolute extinction of which, by the mere force of time, of civilization, and of the lenient and well understood principles and practice of British administration, great advances are in progress."

If what is here intended is a recognition in general of the status of Slavery in India, it appears to us that it is now a great deal too late to shrink from such a recognition. A prohibition to remove slaves into another province for purposes of traffic, is surely as distinct a recognition of Slavery as a prohibition to punish

slaves. Yet a Law to this effect was passed in 1832. Indeed the very Statute under which we are now recommending measures for the mitigation of Slavery, contains a distinct recognition of that status in this country.

But if the meaning is, that the "enforcing by the Magistrate of the obedience of slaves in like manner as servants," would occasion the recognition by public officers of Slavery as the status of specific persons, we fully admit that this would be a decisive objection to a Law containing a provision for enforcing in that manner the obedience of slaves.

It is hardly necessary to say that we contemplate no such Law. It would offend against both of the principles which we laid down a few pages back, as governing our Recommendations. Such a Law would both strengthen rights and obligations arising out of Slavery, and cause many persons who are not slaves according to strict Law, to be treated as such by public authorities.

The investigation before a Magistrate must necessarily be of a much more summary kind than that by which the question of ownership would be decided in a Civil Court. The consequence would be, that men might be forced back into the service of those whose slaves they are not. There is besides just reason to apprehend that a decision of this kind would have the effect of fixing the status of Slavery indelibly upon the individual concerned. It would be easy no doubt to provide in the Law that such a decision by the Magistrate should not prejudice the party's title to freedom in a civil action. But it would be very difficult, if not impossible, to make the slave comprehend this provision; especially as it would be the interest of masters that the slave should not comprehend it.

A Law transferring coercive power from the master to the Magistrate, including, as it does, the power of compelling the return of a runaway slave, would be a step in a direction not only opposite to that in which our own principles impel us to move, but also to that followed by the Governor General in Council in 1836, with regard to the provinces not subject to the Regulations, and even to the direction which we are commanded by the Imperial Legislature to pursue.

The views of the Governor General in Council to which we are alluding, may be seen at p. 162, and also in the latter part of this Report. With regard to the Imperial Legislature, we are commanded by the Charter Act to devise means for the extinction or mitigation of Slavery. We think such a measure as the one under consideration would not be in accordance with those commands of the Legislature.

It may perhaps be thought, that although the provision in question considered by itself, would be a step in the wrong direction, it is otherwise when coupled with the abolition of the master's right to coerce his slave. Three considerations, however, will shew that this view is not correct.

First, admitting for the sake of argument that the measure is a mere transfer of power from the master to the Magistrate, it is a transfer unfavorable to the slave. For, although, as regards the power to punish for idleness and misbehaviour a slave,

whom the master has got in his possession, the transfer to the Magistrate would no doubt be, in one point of view, a mitigation of Slavery; the pursuit, apprehension and restoration of a fugitive slave is quite a different thing. The Magistrate with his Police, is an incomparably more efficacious instrument for this purpose than the master.

Secondly, we have already remarked, that the investigation before a Magistrate must necessarily be of a much more summary kind than that by which the question of ownership would be decided in a Civil Court. And this is true, whether the investigation takes place upon a demand of the master to have a disobedient slave punished, or a fugitive restored. Add to this, that if the Regulations of 1774 are still in force, (and they have never been repealed,) the status of the greater part of the *de facto* slaves in the provinces of Bengal and Behar, and the district of Midnapore, would turn out, upon investigation in a Civil Court, to be, not Slavery, but freedom. Add further, that the same may be said of the slaves *de facto* of all the Mussulmans within the Presidencies of Bengal and Agra. For, according to decisions of the *Sudder Dewanny Adawlut*, based upon Mahomedan Law, no Mussulman can maintain a claim to a slave in any Civil Court in those Presidencies. And it will be abundantly evident, that the investing of Magistrates with this jurisdiction to be exercised upon a summary enquiry, not into the right, but into the mere fact of Slavery, is a measure calculated to give legal vigour and consistency to an institution, which now is held together almost exclusively by the opinions and feelings of the people.

But thirdly, it is not true that the measure in question would be a mere transfer of power from the master to the Magistrate. Throughout a large part of India the master is not now authorized by the Law, as administered by the Courts, to bring back his runaway slave by force, or to beat his disobedient slave. His only remedy is a civil action. Throughout all that part of India the measure in question would be in direct opposition to the commands of the British Parliament.

Mr. Officiating Secretary Grant remarks also, that "it appears to be very important to compare, on the one hand, the inconveniences to which it may be thought the Law will give rise, not merely such as may necessarily result from it, but also such as it may be likely to produce if administered indiscreetly, or if made a plausible ground for discontent and excitement, and, on the other, the practical benefits which the Law may be expected to confer."

We have already stated the principal practical benefit which we expect from the Law abolishing the power of punishment, to which we will add the advantage of letting a master know with certainty what he is to expect if his slave complains of a beating to the Magistrate, which advantage the master now does not possess. And with regard to the indiscreet administration of the new Law, it seems scarcely possible that the Courts should go further in the way of indiscretion (if any indiscretion there be in the matter) with the new Law than they now do without it. Our reason for thinking that the Law will not produce discontent or excitement in any considerable degree is, that these extremely liberal proceedings of the Courts, the various legislative enactments, and orders of Government in the nature of legislative enactments on the subject, and the proclamations of local authorities,

appear always to have been received with entire submission. For the facts establishing this proposition we refer again to Mr. Cameron's Minute.

Mr. Secretary Grant next raises the question—

“Whether, supposing a Law of the nature proposed be determined on, it could with justice be passed without compensation to the owners of slaves, and generally speaking, what compensation would be equivalent to the practical change which such a Law would effect in the value of a slave.”

We have maturely reflected upon this question, and we are of opinion, that a Law of the nature proposed could with justice be passed without compensation to the owners of slaves.

The Order in Council for improving the condition of the slaves in Trinidad furnishes a precedent applicable to our purpose.

Before that Order the Trinidad slave-owner had the power of stimulating his slaves, male and female, to labor by the immediate application of the cart-whip, which was always carried into the field.

The Order provides, “that it is and shall henceforth be illegal for any person or persons within the said Island of Trinidad, to carry any whip, cat, or other instrument of the like nature, while superintending the labor of any slaves or slave in or upon the fields or cane-pieces upon any plantation within the said Island, or to use any such whip, cat, or other instrument for the purpose of impelling or coercing any slaves or slave to perform any labor of any kind or nature whatever, or to carry or exhibit upon any plantation, or elsewhere, any such whip, cat, or other instrument of the like nature as a mark or emblem of the authority of the person so carrying or exhibiting the same over any slaves or slave.”

The Order in Council also converted into a judicial proceeding the power of punishing offences with the lash, which it still left to the master in regard to male slaves, limiting the punishment to 25 lashes in one day, requiring that the slave should be free from laceration occasioned by any former whipping, that 24 hours should elapse between the commission of the offence and the punishment, that one person of free condition should be present besides the person inflicting the punishment, and that if the punishment exceeded 3 lashes, a statement should be entered in a book of the nature and particulars of the offence, of the time, place, and of the nature and extent and particulars of the punishment, and of the person or persons of free condition present.

With regard to female slaves, the Order in Council not only took away from the master the power of stimulating to labor by the cart-whip, but also the power of flogging for offences committed, leaving him nothing but the power of imprisoning or putting the female offender in the stocks.

It seems to us impossible to deny that this Order in Council, which had the sanction of both Houses of Parliament, was a much greater infringement of the

rights of West Indian masters, a much greater deterioration of the pecuniary value of West Indian slaves, than our Act will be of the rights and value of the masters and slaves of this country. And if that be so, then we have the authority of the King in Council, and of the two Houses of Parliament, for saying, that the passing of this proposed Act would create no legitimate claim to compensation.

In the debate which took place in the House of Commons on the 19th of May 1826, the question of compensation was discussed. That debate arose upon a Resolution moved by Mr. Brougham, expressive of the House's deep regret, that nothing effectual had been done by the West Indian Legislatures in compliance with the declared wishes of His Majesty's Government and the Resolutions of the House of Commons, upon which the abovementioned Order in Council was founded. Mr. Canning, who spoke as the organ of the Government, expressed himself thus—
 "I agree, Sir, in many particulars with an Hon'ble Gentleman opposite (Mr. Bernal), who has spoken with so much good sense: but I differ from him widely on the subject of compensation. I think nothing could be more monstrous than to admit a claim to compensation into a system of measures which are purely measures of amelioration; and which all who look upon the moral improvement of the slave as beneficial to the interests of the master, must acknowledge to be calculated to create eventually an advance instead of a deterioration in the value of the master's property in his slaves."

We quote these words because it would not be right in considering the question to which the Government has called our especial attention, to omit the opinion of so distinguished a statesman. But we must confess that we are not satisfied with his reasoning. His argument is, indeed, stated with the utmost skill, but we think it admits of an answer, particularly as it applies to the use of the whip.

The fallacy appears to consist in not distinguishing between the improvement of the Negro as a man, and his improvement as a slave. What the Trinidad planter wanted was a strong and submissive drudge, with just so much intellect as would enable him to perform the several operations of cane planting and sugar making.

The elevation of the Negro in the scale of rational beings was to the planter, as such, a matter of indifference in itself. And if that elevation was to be produced by taking away the stimulus which induced the slave to cultivate with energy the soil in which he had no discernible interest, the master cannot have regarded it as a good in which he was to have his share, but as a good which was to be brought about at his expense.

It seems to us, that the Legislatures of the West Indian Islands, who declined to adopt the principles of the Trinidad Order, had a correct perception of their own pecuniary interests; and we believe that the slaves of Trinidad must have become, under Mr. Canning's humane regulations, less valuable considered as mere property, than they were when, to use his own expressive words, "they were subject to that wanton and degrading use of the whip which places the Negro slave on a footing with the cattle of the field."

The same view of the subject was taken by Lord Dudley and Ward, himself a proprietor of slaves. He said, "that while Negroes remained the slaves of the planters, he did not think that what was done merely to ameliorate their condition, could form a ground for such a claim. The moment, however, that another important step was taken, the moment, however prompted by humanity and with whatever prospect of success, measures were taken to set the slaves free from their masters, the nature of the case was completely altered, and the owners were justly entitled to indemnification. Where Slavery ended compensation began."

We have felt bound in candour not to put forward as if we have relied upon it, an argument from which we see reason respectfully to dissent, however much we might have rejoiced to shelter ourselves under the authority of such names as Mr. Canning's and Lord Dudley and Ward's. But though the ground upon which those distinguished statesmen put the refusal of compensation may not be tenable, there may be, and it seems to us that there is another ground on which the refusal may be justified. When a Legislative measure diminishes the value of property, it seems to be a necessary condition to the granting of compensation that the diminution should be capable of estimation. It would be neither wise nor just to give compensation at random. If, therefore, compensation cannot be given in a particular case otherwise than at random, it ought not to be given at all. This question must not be confounded with the question of compensation for injuries by individuals, to which at first sight it seems to bear great affinity. There is an essential distinction between them. In many instances the Law awards compensation for injuries committed by individuals even where there is no standard by which the amount of injury can be estimated. As in actions for adultery, or for defamation. But in these cases the idea of punishment seems to mix itself more or less with the idea of compensation. The Law does not actually authorize the infliction of punishment in a civil action, but it at least connives at such infliction. In *odium spoliatoris* it is permitted to take something more from the defendant than the actual amount of the damage. This we believe to be the motive which has induced the Legislatures of most civilized countries to exact compensation for injuries by private persons even when the amount of the compensation must be fixed at random. If by the random estimate that must be made, too little is given, still the injured party is in a better plight than if no compensation were given. If too much is given, it is at least taken from a person who has deserved no favor.

This doctrine has no application to the case of compensation given out of the public purse for damage to property inflicted by the Legislature. By supposition, the act of the Legislature which produces the damage is not a blameable, but a meritorious act. The idea of punishment is entirely out of the question. The Legislature is aiming at the general good of the whole people, and if in attaining that object, it inevitably damages the property of individuals, it may reasonably say to them, "Shew us the amount of the loss you have suffered, and you shall be indemnified out of the public purse. But if you cannot shew the amount, we shall run the risk of giving you more than an indemnity." This principle, we believe, is very generally acted upon. Acts of Parliament which regulate the mode in which property shall be enjoyed almost always affect its value. But compensation is not given in such cases. And the ground of distinction between such cases, and those in which property is taken away, seems to be, that in the latter case the damage is

estimable, in the former not. We fairly admit the mere circumstance that a legislative measure must lower the value of property without the possibility of compensation, to be itself an objection to that measure, but it is of course an objection which in each case may or may not be overbalanced by the advantages expected from the measure. In this case, moreover, it is only for the sake of argument that we admit that there is any sensible deterioration of property.

We are satisfied that the deterioration of property occasioned by our Act will be so small, as not to be worth consideration, even if it were capable of being estimated in figures; and further, that there will at any rate be no deterioration which would not equally have place whether this Law were passed or not.

We hold, that our proposed Act differs from the Trinidad Order in Council in such a manner, that even if the latter had created a case for compensation, it would not follow that the former would do so. All our evidence shews, that the Indian slaves work for the sake of preserving the advantages of their position, and because they feel that their interests are bound up with the prosperity of their master's affairs. Universal experience shews, that if they had not some such motive, the degree of punishment which the Judicial authorities of India now permit, would not be sufficient to make them useful to their master in a pecuniary way. The power of inflicting such a degree of punishment may be convenient to the master in preserving the discipline of his establishment; but its value in money is surely not worth the trouble of attempting to estimate it.

If, then, the British Government and the two Houses of Parliament were justified in passing and approving this Order in Council without giving compensation to the slave-holders of Trinidad, it follows, that the Government of India will be much more than justified in passing the proposed Act without giving compensation to the slave-holders of India. This follows, as we have just been shewing, from the difference between the power which the Order in Council took away, and the power which the proposed Act will take away.

But the same conclusion follows also, as we will now shew, from the different position in which the two Governments stand with relation to the parties whose rights are in question.

The British Government had itself created and fostered the Slavery of the West Indies. It had done every thing in its power to encourage the investment of capital in slaves. It had more than once refused its sanction to Acts passed by Colonial Legislatures to prevent the further importation of slaves. The West Indian planters were in truth only the instruments (the willing instruments no doubt for the most part) by which the Government and Legislature of Great Britain carried into effect their schemes for augmenting the national wealth by slave labor. If ever, therefore, there was a case in which the Legislature would have been justified in exercising liberality with the public money, it was this case of the West Indian planters. Yet so long as the property in slaves was suffered to continue, the claim to compensation for measures which merely diminished in an uncertain degree the productiveness of that property, was held to be clearly inadmissible. How much more clearly, then, is the claim supposed to arise out of this proposed Act, inadmissible?

The Government of India found Slavery existing as an immemorial institution. From the time of Mr. Hastings' Regulations, whenever it has had occasion to speak publicly upon the subject, it has announced its rooted dislike of that institution. No man was ever tempted by the Government to acquire this kind of property. Very few men can have purchased slaves without knowing that they were acquiring property in a subject-matter which the Rulers of the country thought to be wholly unfit for such a purpose.

But further, we submit, with reference to the observations in Mr. Grant's letter, that the question of compensation does not depend upon the adoption or rejection of our Recommendation. For, as we have already observed, there will be no deterioration of property which would not equally have place whether this Law were passed or not.

If the alternative were, shall we take the power of parental correction from the master, or shall we leave it to him? then indeed, before adopting the first branch of the alternative, it would be fit to consider, whether the power is of any substantial and ascertainable value. But that is not the alternative in the present conjuncture. The alternative is, shall we take the power of parental correction from the master by a legislative Act, or shall we take it by judicial decisions?

"It must be sufficiently clear," says Mr. Grant's letter (para. 5th), "that the abhorrence of Slavery entertained by the English functionary is gradually establishing an administration of the Law under which all Slavery must fall. It may be certain that with the lapse of time that abhorrence will only increase and be diffused, and that any inconsistencies now existing in legal practice must be before long removed in favor of the slave."

We pass by for the present the very questionable propriety of permitting the judicial functionaries to express and to act judicially upon their abhorrence of that, which the Legislature of the country not only admits to be the Law, but actually refuses to repeal; and we remark only, that if any inconsistencies now existing in legal practice, must be before long removed in favor of the slave, the same right to compensation appears to us to accrue to the masters whether that removal is effected by a repeal of the Law, or by the abhorrence which the judicial functionaries feel for it. If there really is injustice in taking away the power of correction without paying for it, that injustice is not mitigated by the proposed mode of taking away the power. At best the injustice is only concealed by that mode of proceeding. Not only is it not mitigated by that mode of proceeding, but it is really aggravated. By a Legislative repeal, fair notice would be given to all masters of slaves, that correction is forbidden and punishable. By the other course, many masters would be led to believe, that they might lawfully exercise the power, and would only be undeceived by finding themselves treated as criminals. Either, then, compensation is due though this Act should not pass, or compensation is not due though this Act should pass.

The second evil which belongs to Slavery in India, is the sale of free persons into Slavery. It is true, that when adults sell themselves, or when parents sell their children with a sincere view to their advantage, this kind of transaction, though very alien from our manners, is, in the absence of any provision for the destitute, not

without its utility. But there are many abuses connected with it, and some of the most frightful kind.

The first of these which we shall mention is, as far as we are informed, confined to the province of Behar. It is by no means the worst, but it illustrates very strongly that blind obedience paid in this country to custom, however strange and unreasonable. The first account which we have met with of this peculiar Slavery in Behar, is contained in a letter from the Provincial Council of Patna to Mr. Hastings, dated 4th August 1774.

Having stated that on investigation they found two kinds of slaves in the province, Mussulman and Hindoo, and that the former are properly called Moollazadah, and the latter Kahaar, the Council describe, as follows, the manner in which the Kahaar caste became slaves. "They date the rise of the custom of Kahaar Slavery from the first incursions of the Mahomedans, when the captives were distributed by the General among the Officers of his Army, to whose posterity they remained. All other slaves have become so by occasional purchase, as in cases of famine, &c. The Kabalah must be signed by the mother or grandmother, and not by the father. Children also born of slaves are the property of the owner of the woman, though married to a slave of a different family."

"The Palankeen bearers in this province are all of this latter tribe, and belong to some person or another, though allowed to intermarry, labor for themselves, and act at their own discretion, the same as if no such nominal bondage subsisted."

The bondage, however, could not be called altogether nominal, for it appears to have always involved a liability to be sold into actual Slavery.

"It seems, say the Provincial Council, that on the sale of a slave who separately procures his own subsistence, only one half of the price is received by the owner, the other half going to the parents of the slave."

This state of things appears to have been the transition from complete Slavery, in which the slave could of course be sold by nobody but his master, to that extraordinary condition in which the free Kahars and Dhanuks of Behar are described to be by one of our witnesses, Tek Loll.

"Of Hindoo slaves, he says, there are two classes in Behar. The Kahar and the Dhanuk, which is called Juswar Kurmi. These are both inheritable and transferable by sale. By the local custom of Behar, free persons, whether infant or adult, of these two classes, may be sold by their maternal uncles or maternal grandmothers, not by their parents."

"No one would buy a free person of these classes unless the maternal grandmother or maternal uncle was present at the delivery and consenting."

"The mother has a veto upon the sale, but not the father."

"The maternal grandmother has the prior right to sell. She being dead or permanently absent, then the maternal uncle."

“These sales take place not only in times of scarcity, but at all times.”

“Bun Vickree is one kind of these sales, which takes place when the subject of the sale is absent from his family. The consent of the subject is quite immaterial, and is not asked. The price is lower when the sale is Bun Vickree.”

“If a person thus sold were to refuse compliance, the buyer would coerce him, and I should think, the Magistrate would support the buyer in doing so.”

“I do not know any case of the kind of my own knowledge, but I have heard of such cases.”

This strange custom appears, as we have said, to be peculiar to Behar. In other parts of India free persons are sold into Slavery. But they are either children sold by those who have parental authority over them, or adults sold by themselves. Here, adult free persons are sold, not only without their consent, but without their knowledge and in their absence, the price in that case being lower, because the buyer runs some risk of never finding the person he has bought.

Such a custom would be wholly inexplicable if we did not know that the persons thus sold, though practically free before the sale, do nevertheless belong to a slave stock, and have never been legally emancipated. We may suppose, that in the transition state described by the Provincial Council of Patna, the master was glad to permit the relations of the slave to retain half of the price, upon condition that they would help to make the sale effectual, and that in process of time those without whose help the sale could not be effectually made, began to keep the whole price themselves.

The right to sell, if so it may be called, is supposed to reside only in persons to whom the slave is related by descent from females. This is doubtless with a view to ensure that the relationship is genuine. In some other parts of India the rules of inheritance are framed with the same sort of caution.

Dr. Buchanan does not mention this remarkable custom. He says only (Vol. I. p. 125), “By far the greater part (of slaves), as in Bhagalpur, are of the Rawani or Dhanuk tribes, but there are some Kurmis. Such Kurmis, however, as have become slaves are usually called Dhanuks. Kurmis and Dhanuks born free occasionally give themselves up as slaves, when they fall into distress. All the Rawanis seem originally to have been slaves, although a good many, from circumstances above mentioned, may now be considered as free.”

Another witness from Behar denied all knowledge of this custom when we put the question to him.

“The great majority of Kurmi are absolutely free, but as far as I know, a free Kahar does not exist, though many have left their masters and are practically free. But these when claimed never pretend to be gurua or unowned. They are sold by their owners but never by any one else.”

The answer of Mr. Morris, Judge of Patna, to the questions of the Law Commissioners, as far as it relates to the present subject, is as follows:

"I will first of all observe generally, that nothing could have been more loose or uncertain than the practice in regard to rights claimed or exercised over slaves. I have never been able to trace the rules that were recognized or acted upon to any principles of Law, whether Mahomedan or Hindoo. Local prescriptive usage, modified and limited by occasional edicts issued by the civil authorities to guard against particular abuses, seems to have been the only Law to which either party, whether master or slave, looked up. In the usages which have thus become common and binding certain principles of natural equity were more or less discernible. For instance, the right of disposing by sale of infant offspring, male or female, rested exclusively with the mother, or failing her, with the maternal grandmother. The father or other relations on his side had no such right of disposal, nor is his consent even deemed indispensable to the validity of the sale. This custom applies mainly to two large castes, viz. the Kahars and a tribe of Kurmis, who, as a body, are all counted as slaves immemorially, though it may happen that some few here and there being accidentally free, do sell their own children. In all other cases the children are the property of the parents' master. By degrees the practice referred to seems to have become pretty general throughout Behar, i. e. whether the parents are reputed free or otherwise, no sale of children appears to be recognized as valid to which the mother or her mother has not in some way been made a party; and even in cases of sale of slaves, the undoubted property of the person selling them, it is customary, in order to give greater validity to the sale, to procure the assent of the mother or her attestation to the instrument of sale."

The particulars of this very singular custom will be found more fully stated in the part of our Report which gives the details of Bengal Slavery.

The next abuse which springs out of the custom of selling free persons is that of kidnapping children for the purpose of selling them, and connected with this is the unheard of atrocity of an established trade, which consists in murdering the parents and other persons in whose care children may be, with a view to kidnap the children, and to prevent their being reclaimed.

This monstrous practice has only been lately brought to light, and it is described in Major Sleeman's Report under the name of Megpunnaism. "There seems good ground to believe that the system began with the siege of Bhurtpore in the year 1826. Parents had, no doubt, long before this been occasionally murdered for the sake of their young children in that and in every other part of India where children are allowed to be bought and sold; but we have no reason to believe that there was, before that time, any gang in that or in any other part of India, that followed this system of murdering indigent and helpless parents for the sake of their children, as an exclusive trade. We have reason to believe that it has not yet extended beyond the Upper Doab, the Delhie Territories, and the Rajpootana and Alwar States; and the able and successful exertions of Lieutenant Mills have given me reason to hope, that we shall very soon, if well supported and assisted by the local authorities, be able to suppress the system where it has prevailed, and effectually prevent its spreading to other parts. It will be seen that these gangs always

select for their victims the parents and grown up children of distressed families who have been driven to emigration by famine or domestic misfortunes. Brinjaras who, all over India, trade in children that have been stolen from their parents; and prostitutes, who purchase those that are good looking wherever they can get them, will give more for those whose parents are certified to be dead than for any others, because they have less apprehension of such children ever absconding in search of them, or being reclaimed by them. In seasons of great and general calamity, like those by which Upper India has been for some years past afflicted, great numbers of the most respectable families of all casts have been reduced to indigence, and obliged to emigrate; and the children of parents of this description, who have been taken great care of and sheltered from the sun, and who are, in consequence, commonly very fair, are those most sought after by these murderers."

"In such seasons of calamity the permission to purchase and sell children saves, no doubt, a great number from starvation; but as such seasons happily even in India return after long intervals, and as this permission is liable to foster such horrible crimes as are here exposed, it had perhaps better be withheld altogether. It is, I believe, understood where such purchases of children are permitted, that when they reach the age of maturity they shall be free to go where they please; but who shall say into what hands or into what country such children shall be transferred before that time comes. If Hindoos, they must become outcasts in their own religion; and in nine cases in ten they become, I believe, Mussulmans in order to secure a recognition of civil and social rights in some circles of society above the very lowest. Lieutenant Mills, in his letter of the 15th October 1838, states—"This system of murdering indigent parents for their children has been 'flourishing since the siege of Bhurtpore in 1826, and the cause of their confining 'their depredations to this class of people seems to have been, the great demand 'they found for these children in all parts of the country, and the facility with which 'they inveigled their parents into their society. They were in the habit of disposing 'of the female children thus obtained for very large sums to respectable natives, or 'to the prostitutes of the different cities they visited; and they found this system 'more lucrative than that of murdering travellers in good circumstances; and less 'likely to be brought to the notice of the local authorities, as enquiries were seldom 'made after the victims by their surviving relations."

"These gangs, contrary to the customs of those whose proceedings are 'now so well known to us, invariably take their families with them on their 'expeditions; and the female members of the gangs are employed as inveiglers 'to win the confidence of the emigrant families they fall in with on the road. 'They introduce these families to the gang, and they are prevailed upon to 'accompany them to some place suitable for their designs upon them, where 'the parents are murdered by the men, while the women take care of the children. 'After throwing their bodies into the river or otherwise disposing of them, the men 'return to their women in the camp; and when the children enquire after their parents, 'they are told, that they have sold them to certain members of the gang and departed. If they appear to doubt the truth of these assertions they are deterred 'from further enquiries by a threat of instant death. They are allowed to associate 'freely with the families of the murderers; and in a few days their grief subsides,

‘and they become reconciled to their fate. The female children are either adopted by members of the gang, or sent in charge of the women to be disposed of. They find a ready sale for them among the Brinjaras, many of whom are connected with these gangs in their murderous trade, and all of them are well known in Upper India to traffic in children. These Brinjaras resell the children to the prostitutes of the different cities, who soon become acquainted with the fate of their parents; and are much pleased to learn it, as it relieves them of all apprehension that they will ever come to reclaim them.”

“The numerical strength of these Mugpunna gangs as far as I can yet learn are between three and four hundred persons over and above what I have already secured; and many of them have living with them the unhappy orphans of respectable parents whom they murdered. I fear, however, that the gangs will hereafter be found more numerous, though I have here given the names and descriptive rolls of all who are known to those whom I have as yet admitted as approvers. Indeed, I am disposed to think that the greater part of the Hindoo Brinjara tribes practice this system of murder; but I am not at present in possession of sufficient evidence to authorize the apprehension of any. The conviction of these gangs for specific acts of murder is attended with considerable difficulty from their practice of throwing the bodies of their victims into the rivers, near which they are commonly murdered; and from the obstacles we find in tracing and recovering the children who have become inmates in the Zenanas of respectable people, or the establishments of common prostitutes, who all consider themselves justified in the purchase of them.* They are so, I fear, from the existing Regulations—at least the purchase has not hitherto been considered a crime, particularly during the late famine, when hundreds of children were bought and sold daily.”

* “When the children are found they are often too young to be admitted as competent evidences at the trial.”

For the further illustration of this astonishing depravity we quote some passages from the confessions given in Major Sleeman's Report.

“The confession of Jewun Dass, alias Prem Dass, relative to the Husseecagunge affair, taken in my presence on the 19th August, 1838.”

“Q. Are you a Jemadar of Thugs?”

“A. Yes.”

“Q. How many men and women compose your gang?”

“A. My gang formerly consisted of 50 or 60 men and women, but of not more than 10 or 12 latterly.”

“Q. Relate some of the technical terms used by your gang.”

“A. We call our trade, viz. murdering travellers for their children, Megpunna. A male traveller, Kur, a female traveller, Kurree.”

“Q. Do you observe any omens on opening a Megpunna expedition?”

“ A. Yes, the call of the partridge, which if heard on the left is considered propitious, and on the right the contrary.”

“ Q. From whom did you learn this system of Thuggee, &c.?”

“ A. From Umree Jemadarnee, a woman confined for life in the Delhie Jail.”

“ Q. Relate the particulars of the Husseeagunge affair.”

“ A. I left my home with a gang of forty Thugs and proceeded to Husseeagunge, where Heera Dass and Rookmune went to the city of Muttra for the purpose of buying some clothes, and succeeded in winning the confidence of four travellers, two men and two women, with their three children, whom they brought with them to our encampment. After passing two days with us, Teella Dass, Mudhoo Dass, Byragees, and Dewa Hookma, Teelake, Gungaram, Brinjarra, Balluck Dass, Chutter Dass, Neput Dass and Hunooman Dass prevailed on this family to accompany them to the banks of the Jumna and murdered the four elderly travellers in a garden near the village of Gokool. After throwing their bodies into the Jumna, they took their three children to the “Tanda” or encampment of Dewa Brinjarra near the village of Kheir, and sold the two female children for forty Rupees, and the male for five Rupees. On their return to the encampment of the gang, Heera Dass, alias Pudma, and Mudhoo Dass quarrelled about the division of the money, which terminated in Hookma Brinjarra preferring a complaint of selling children against Mudhoo Dass at the Thana of Husseeagunge. The Thanadar made enquiries regarding the sale of the children, and succeeded in recovering them from Dewa Brinjarra, who related at the Thana the particulars of the murder of their parents, and the circumstance of their having been taken by a party of Byragee Thugs to the village of Khar, and sold to the Brinjarra, upon which the Thanadar apprehended 29 of us.”

From the deposition of Radha, wife of Roopla.

“ We now went off to Thuneiseir, where we encamped in a grove on the bank of a tank, and here several parties of travellers were inveigled by the wives of the leaders of our gangs to come and take up their lodgings with us.”

“ 1. A Chumar with three daughters, one thirty years of age, and the others young.”

“ 2. The widow of a carpenter, and her son ten years of age.”

“ 3. A Brahmin and his wife, with one beautiful daughter fourteen years old, another five, and a son six years of age.”

“ 4. A Brahmin and his wife, with one daughter about fourteen, another twelve, and a son three years of age.”

“ These travellers lodged for two or three days among the tents of the Naeks and Brinjarra, after which we all went one morning to a village in the territory of the Toorooee Rajah, I forget his name. Here very heavy rain fell at night and deluged

the country, and we got no rest. The next morning we went to a village on the bank of the canal, still in the same Rajah's country. The next day we went to a village on the bank of the Jumna; and two hours after night Kaner Dass proposed that we should go down to the sacred stream of the Jumna, say our prayers and remain there. They all went down accordingly, leaving me, Roopla, and his second wife Rookmunee at the village. They murdered the seven men and women, and threw their bodies into the river; but who killed them, or how they were killed, I know not. The Chumar and his eldest daughter, the two Brahmins and their wives, and the Carpenter's widow, were all murdered."

"They brought the nine children back to us a watch and a half before daylight. They were all crying a good deal after their parents; and we quieted them the best way we could with sweetmeats and playthings. We came to Beebeepore, and encamped in the grove. A daughter and son of the Brahmin's were extremely beautiful; and these we left with Dhyam Sing for sale. We came on to a village a coss distant from Beebeepore. Here a trooper came up to Beebeepore, saying, that he had heard of several people being murdered, and suspected us of the crime. The head men of the village of Beebeepore and some of the Brinjarras came to our camp with the trooper, and assured him that he must be mistaken, as they knew us all to be very honest inoffensive people; and taking him back to Beebeepore they treated him with great consideration, and he went away apparently satisfied. But fearing that our deeds had become known, Pemla and Newla's wives, and Pemla's mother, took off the seven other children to Dhyam Sing, and left them all in his charge. Pemla went to Kurnaul; and Goorbuksh and his gang went to Beebeepore, while my husband and his party remained where we were. A woman who keeps prostitutes came from Kurnaul, and purchased and took away all the children. All were sold through Dhyam Sing. One boy was purchased by an elephant driver, who took him off upon his elephant; and another was purchased by a Mussulman. All the rest were taken off in covered carriages by the prostitute to Kurnaul. I should know all their faces again were I to see them. My husband and Kaner Dass disputed a good deal about the mare that has been brought in; but my husband got it at last in his share of the booty, and seven or eight rupees besides."

"At Thunseir, Goorbuksh and his party got six or seven travellers, with their six or seven children, at the same time that we got ours; and the parents were all murdered at the same time and place that the parents of our children were murdered, on the bank of the Jumna. He also sold his children through Dhyam Sing at Beebeepore. There were several people from Beebeepore concerned with us. We came back to Beyree in the Jhujjur Nawab's territory; and three or four days after Goorbuksh came to us with one of the boys he had kept for himself out of his booty."

"The confession of Roopla Jemadar, relative to the sale of the children whose parents were murdered near Kurnaul."

"* This poor boy Goorbuksh is supposed to have murdered when he found it impossible any longer to escape from Lieutenant Allan's parties."

"Three of the children, whose parents were murdered at Kurnaul, were sold to Emambuksh, who keeps prostitutes and lives at a village about four coss from Kurnaul."

Q. Describe the personal appearance of these three children."

"A. One of them is about nine years old, remarkably fair, with very light hair, and the other two not quite so fair, about six or seven years of age."

"Thanah Zemindar, of the village of Beebeepore, takes 5 per cent. on every child he disposes of for us."

"(Signed) C. MILLS."

"Lieutenant Mills had the following conversation with one of the two men, who described this last murder, Dheera."

"Q. You have stated in your various depositions that you invariably preserve the children and sell them. Are you not afraid that these children will disclose the manner in which you got them, and thereby get you into trouble?"

"A. We invariably murder our victims at night, first taking the precaution to put the children to sleep; and in the morning we tell them that we have purchased them from their parents who have gone off and left them."

"Q. You seem to have been in the habit of selling children in all parts of the country. How have you avoided being apprehended?"

"A. The children are seldom aware of the fate of their parents; and in general we sell them to people very well acquainted with the nature of our proceedings."

From the first confession of Khema, alias Nursing Dass, a Jemadar of Thugs.

"After the capture of Bhurtpore, Nanoo Sing Brinjarra, and four other Byragees, residents of Kurroulee, came to me with four travellers, and their four children, and invited me to participate in their murder, which I consented to, and with the assistance of my gang, we strangled the whole of them, preserving the lives of the children, whom we sold at Jeipore for 120 Rupees, half of which was divided amongst the members of my gang. After this affair, I resolved on selecting for my victims the poorest class of travellers, and murdering them for their children, for whom there was so great a demand in all the great cities; since which I have committed the following murders, the particulars of which I will detail as I may remember."

From the sixteenth confession of Hurree Singh, alias Seetal Dass, alias Sewram.

"After my return from the last expedition, or ten days previous to my arrest, I went to Allum Bagh, in the Bhurtpore district, and was disappointed in finding only five Brinjarra, one of whom gave me a rupee for my food, which was to be adjusted the first murder we committed."

There is an abuse of the practice of selling children into Slavery which consists in selling them for prostitution. This abuse does not appear to be confined to those who practice the frightful trade of Megpunnaism, of course, however, such persons are far more indifferent to the future destiny of the unfortunate children whom they sell, than parents or other relations who sell children when pressed by want, and it is therefore probable, that a much larger

proportion of children sold by Megpunna Thugs is devoted to prostitution, than of children sold by any other class.

In Mr. Secretary Grant's letter of the 27th May last, No. 223, he says—"The opinion and suggestions of the Indian Law Commissioners are requested on this subject in a separate Report, as it appears to the President in Council to be a question which, supposing it to require legislation, might be conveniently legislated upon without reference to the question to which my separate letter of this day relates."

Without disputing that separate legislation might take place without inconvenience upon the subject of selling children for prostitution, supposing it to require legislation, we nevertheless foresaw, that the measures which we should have to recommend for the prevention in general of abusive sales of children, would be of such a nature as to prevent the sale of children for prostitution, as far as that can be accomplished by legislation. Foreseeing this, we suggested in our letter which acknowledged the receipt of Mr. Grant's, that it would be most convenient and satisfactory to include our answer on this subject in our general Report upon Slavery.

The prohibitory part of our Recommendations is in conformity, it will be seen, with those which Major Sleeman has made upon the same subject. But in the permissive part we have ventured to go beyond what he thinks expedient. He dreads the consequences of allowing contracts for the services of infants terminating at the age of maturity. "Who shall say, he asks, into what hands or into what country such children shall be transferred before that time comes?"

This is undoubtedly an evil to be guarded against, but we think that the system of registration which we recommend, may be so organized as to accomplish that purpose. We have the high authority of Major Sleeman himself for asserting, that in "seasons of calamity the permission to purchase and sell children saves, no doubt, a great number from starvation." We could not therefore make up our minds to take away altogether this resource from the starving poor, unless we were prepared to suggest some other. But we are afraid that it would not be possible in this country to set up any tolerably safe and economical machinery for the distribution of public charity. We therefore propose to permit these apprenticeships.

The third evil which springs out of Slavery in India, and which is, indeed, necessarily incident to absolute Slavery in all countries where the status exists, is the separation of the members of a family by the sale of part, or by the sale of the whole when they are not all sold to the same master. And also the removal of slaves from places to which they are attached, or to places which they dislike. This last is indeed already confined within certain limits by Regulation III. of 1832 of the Bengal Code, which prohibits the removal of slaves from one province of that Presidency to another, for the purposes of traffic. But such a case as that of a slave bought in Bengal and carried up to Delhi, for the purpose of there performing service, would not be within the Regulation, and yet such a transaction might cause extreme suffering to the slave. And so indeed might a sale by a master residing at one extremity of a province to a master residing at the other, which, upon a different ground, would not be within the Regulation. We prefer, therefore, to declare invalid every sale of a slave without his own consent, or, in the case of a minor, without that of his parent or natural guardian.

Our evidence shows, that sales which are oppressive to the slave are already considered disreputable. The effect of this measure will therefore be no more than the conversion into a legal obligation of a moral obligation, which has no peculiarity that unfits it to receive the sanction of positive Law.

We prefer this to the absolute prohibition of the sale of slaves, because in many cases it may be indifferent or agreeable to a slave to change his master. A slave who can be sold with his own consent and not without it, approaches more nearly to a freeman than one who cannot change his master however much he may desire it.

There is another evil connected with Slavery as it exists in Backergunge, Tipperah, Dacca, Jelalpore, Mymensingh, Sylhet, Rajshahye, Purneah, Sarun, and parts of Tirhoot, which we must not omit in this enumeration, although we have no specific remedy to propose for its correction. We mean the custom of marrying female slaves to a person called a Byakara. Marriage to such a person is called Punwah Shadee.

The Byakara, who is generally, but not always a slave, is the husband of many female slaves, whom he visits in turn, once a month, or once in two months. At each of his marriages he receives a present of four or five rupees from the master of the female, and at each visit to any of his wives he receives food and a small gratuity. Whatever he receives is to his own use, though he be a slave.

The object of this arrangement, according to Mr. Mytton, the Magistrate of Sylhet, is, that the slave girl may remain in her master's house, and that all her children may belong to him.

The same reason for the arrangement is assigned by one of our native witnesses, Brijnâth Das Vydia, and he adds what shews still more clearly that it is the master's interest, when he has a female slave and no male slave who is a fit match for her, to marry her to a Byakara.

"When two slaves* belonging to different masters intermarry, says this witness, if there is no special stipulation, the owner of the female loses all his rights, and the children of course belong to the owner of the male. He, however, receives no consideration for giving up these, for in an affair of marriage who takes a price?"

Unless therefore the master of a female slave marries her to a Byakara, or to a slave of his own, he loses her and her offspring; and moreover, he cannot, without the imputation of meanness, receive money for the property he thus parts with. This last circumstance seems also to shew, that the feeling of the master towards his slaves resembles rather that with which he regards his children, than that with which he regards his horses or bullocks.

Two of the Judicial authorities seem, from their answers to the questions of the Law Commission, to look upon this kind of marriage in a somewhat different light,

* We must of course understand the witness to mean the case where the male slave is not a Byakara. Indeed according to his evidence, the Byakara is generally a freeman.

and to regard it as a cloak thrown for the sake of decorum, over an intrigue between the master and his female slave.

Mr. Cheap, Judge of Mymensingh, says in describing this kind of marriage, "It appears to be confined much to this part of India, and from the Pundit's Bewusta would appear not to be authorized by the Shasters, but has the sanction of custom, on which, I believe, all Hindu Law Officers place almost equal dependance."

He then describes it as "the marrying of female slaves to a person who makes it his occupation to go about and offer himself as a husband for any slave. This is called a 'Punwah Shadee'. The bridegroom receives a few rupees, sometimes only two and a cloth. He stays a night after the ceremony is performed and then departs, and is generally called upon to visit his wife after she has been confined. This nominal marriage (for of its consummation some doubts may be entertained) removes any stigma or reflection that might arise from a female slave being enceinte. But as her being so again would, without another visit from her avowed husband, lead to suspicion or scandal, he is again called in, as I have above stated, after her delivery."

"Of the offspring of such marriages, the putative father (who is a freeman) may, I believe, claim every alternate child, but it is not often, I believe, that he avails himself of this privilege, for if he did, and his wives were prolific, he would find it difficult to provide for his numerous family, and paternal feelings cannot have much to do with the matter. He is, in fact, much the same as a Koolin Brahmin, and may form as many marriages, with this difference, that the latter confers an honor on the family where he makes an espousal, and the 'Punwah Battur' saves the reputation of a slave who may become pregnant in the household, perhaps of that very Koolin's wife's family, or any other wealthy Hindoo's."

Mr. Stainforth, Magistrate of Backergunge, after mentioning other marriages of slave girls, adds—"lastly, they are married to Beeakaras, professional bridegrooms, who receiving three or four rupees, marry scores, cohabit with them for a short time, and quit after the fashion of the Koolen Brahmuns."

"If the slave becomes pregnant when it could not have been by the Beeakara, he is sought for, and induced by a present to come and cohabit with her for a short time, to divert suspicion of the paternity from resting on the master. If the Beeakara cannot be found, abortion is resorted to, or the woman is turned out."

It is to be observed, however, that Mr. Stainforth says, "The profession of a Beeakara obtains among the Moosulmans, the birth of a bastard child in whose house is not necessarily discreditable."

The probability seems to be, that the Punwah Shadee was invented for the purpose of keeping female slaves and their offspring in the possession of the master, but that being capable of serving as a cloak to the master's licentiousness, it is occasionally put to that use. And this view of the subject is confirmed by the evidence of Kashinâth Khan, who says, "Sometimes this kind of marriage is intended only as a screen to conceal the intimacy of the master with his female slave."

We have already stated that we have no specific measure to propose on this subject. The Hindu Law permits unlimited polygamy, and it would probably not be prudent to meddle with that institution. But the fact that Slavery aggravates, as in this case, the mischiefs of polygamy,* is an additional reason why the termination of Slavery should be desired, and, if possible, hastened.

The next mischiefs to be considered are those of importation and exportation.

With regard to importation by sea, the only measures we have to recommend are two, which are required for rendering effectual in India the Statute 5th G. IV. C. 113, viz. that Vice Admiralty Commissions should be sent to all the Supreme Courts, and that power to seize for breach of the provisions of the Act should be given to the Officers of the East India Company.

Importation by land, when the act is not accompanied with circumstances which will bring it within any of the penal or prohibitory Recommendations which we suggest for the prevention of oppression, can hardly be looked upon as an evil. A slave brought over our frontier from a country where his master has, *de facto*, power of life and limb over him, into our dominions where he is entitled to redress from the Courts if his master strikes him, is certainly not injured by the change. We do not, therefore, propose to prohibit such importation. On the contrary, it is rather matter of regret that our other measures must tend to operate as a prohibition.

We do not know whether it was designedly or unintentionally that while importation of slaves by land, and removal of them from one province to another, are prohibited by the Bengal Code, no provision has been made against exportation of slaves by land, which nevertheless seems much more likely to be productive of hardship to the slave. The Madras Code† has no provisions at all on the subject of importation and exportation. The slaves in that Presidency have only the protection of the British Statutes, which are understood to provide only against importation and exportation by sea. The Bombay Code prohibits the exportation of slaves by land for the purpose of sale.

We recommend that the exportation of slaves by land against their will, be generally prohibited.

There is a class of cases in which masters residing in foreign States have sought to bring back to their own country slaves who have taken refuge in our territories, and in which foreigners visiting our territories accompanied by their slaves, have sought to recover them when they have absconded, with the view of removing them from our territories. This kind of transaction does not properly fall within the description of exportation, and a special provision seems to be necessary.

* The great honor which a Coolin Bramin confers upon the families with which he intermarries, has given rise to a custom among that class analogous to that of the Punwah Shadde, but productive probably of much greater evils.

† Vide ante, p. 253 et seq.

The following details will shew that this class of cases has hitherto been dealt with only by the Executive Government, and that some legislative provision is desirable.

On the 13th April 1836, Mr. Hodgson, the Resident at Nepaul, wrote to Mr. Wilkinson, the Magistrate of Tirhoot, as follows :—"At the request of the Durbar, I have the honor to forward to you a list of fugitive slaves belonging to a Chief of this kingdom, who have taken up their abode in your Zillah, and whom it is desired you will have the goodness to use your endeavours to cause the return of to their master, so far as your doing so may consist with law and propriety."

On the 17th of the same month Mr. Hodgson again addressed Mr. Wilkinson thus :—"With reference to my despatch to your address of the 13th instant with its enclosure, I request you will be good enough to limit your services for the present to the ascertainment of the facts, whether the slaves are now forthcoming at the place stated, as well as under what circumstances they fled from Nepaul, and if it is their disposition to return voluntarily to their master, provided he be first pledged not to maltreat them."

"Though it has been heretofore customary to solicit and obtain the aid of our Magistrates to procure the return of fugitive slaves, I am not sure that such compliance with the Durbar's wishes be warrantable, and I have accordingly referred the question to the decision of Government."

The answer of Government to this reference is contained in a letter from Mr. Secretary Macnaghten, dated the 22nd May.* "In reply," he says, "I am desired to acquaint you that the Governor General in Council prefers the tenor of your second to that of your first communication to the address of Mr. Wilkinson, it being the object of the British Government to effect the gradual suppression of Slavery, and manifest its aversion, instead of lending its support to the practice, on all possible occasions."

On the 14th May Mr. Hodgson again wrote to Mr. Wilkinson, informing him of the disinclination of Government to the surrender of the slaves. "I request, therefore," he says, "you will be pleased to relieve them from the surveillance of your Police, and to let them know that they are at liberty to continue in your district without liability to future question or interference of any sort."

On the 6th June Mr. Secretary Macnaghten informed Mr. Hodgson that the Governor General in Council had been pleased to approve the tenor of his communication to Mr. Wilkinson.

The doctrine thus sanctioned by the Supreme Government was confirmed by the opinion it expressed in another case which occurred in the course of the same year, though the facts of this latter case turned out not to be such as to call for the expression of that opinion.

The case was as follows :—A Khamptee Chief, named the Towa Gohain, complained to Lieutenant Miller that his female slave had absconded, and had taken refuge with one of Lieutenant Miller's Chuprassces. Upon this Major White,

Political Agent in Upper Assam, instructed Lieut. Miller, that if he was satisfied that the woman was a slave, and that she had not suffered from any gross maltreatment, compatibly with the usage of the British Courts in Lower Assam he was bound to give her up.

The Government seems to have supposed from the entry of these proceedings in Major White's Diary, that the requisition for the delivery of the slave girl had been made by authority from the Rajah Poorunder Singh, and Mr. Secretary Macnaghten wrote to Major White on the 1st August 1836, requesting him to state under what circumstances and upon what principle the surrender could be deemed justifiable. "There appears," Mr. Macnaghten adds, "to be no provision in the treaty with Poorunder Singh which would authorize such a requisition, and nothing short of a positive obligation would appear sufficient to warrant an interference to compel the return of any individual to a state of slavery."

Major White's reply, dated 27th August, explains, that "the order in question was given with reference to a Khamptee Chief named the Towa Gohain, who stands in quite a different relation to the British Government from that of Poorunder Singh, a feudatory Rajah, possessing the power of life and death, inasmuch as that the British Government, although it allows the Khamptee Chiefs to manage the internal affairs of their tribes, yet reserves to the Political Agent or Commanding Officer at Seddeya, the cognizance of heinous offences, and the investigation of complaints preferred against the Chiefs themselves: under these circumstances the Law with regard to slaves has been the same as that observed in Lower Assam subject to direct British Rule."

Major White then points out, that according to the practice of the Courts in Lower Assam, this slave ought to be given up. He concludes his letter thus:—"As regards Poorunder Singh, I have no recollection that he ever made any requisition to me for the surrender of slaves; but it would be satisfactory to obtain a rule of conduct for my guidance in regard to him, the Singphoes, and other Chiefs, as if they see that slaves are given up in the Company's Territory, they may conceive it inequitable that persons proved to be such before a British Magistrate, and who have not absconded from illtreatment, should not be surrendered, more particularly females, who generally run away to British Sepoys and others, because their high pay enables them to spend more money upon them than the Assamese can afford."

To this letter Mr. Secretary Macnaghten rejoined on the 12th September. "I am directed to state," he says, "that it is the wish of the Governor General in Council, that all functionaries should consider it as a general rule to refrain from any summary interference for compelling the return to a state of slavery of individuals who may have effected their escape from it. Every individual must be presumed to be in a state of freedom until the contrary is proved; and where rights are claimed affecting his freedom, there seems to be no reason why the claimants should have greater facilities afforded to them than in ordinary cases. As the Law now stands, it may not be proper to reject a regular suit instituted to prove the right of one individual over the labor or person of another, but the plaintiff should at least be required to fulfil completely all the conditions which the Law requires in the establishment of his claim."

This, it will be seen, is only an instruction as to the manner of dealing with claims made to slaves by persons living under British dominion, and does not touch the question how a claim made by a foreigner to carry his alleged slaves out of the Company's Territories, is to be treated. But the expressions we have quoted from Mr. Macnaghten's letter of the 1st August shew clearly, that the Supreme Government was prepared to adhere to the principle on which it had acted in the case of the Nepaul Chief, if the question of restoring slaves to masters residing in independent territories had really been involved.

This principle appears to us to be a sound one. We think that it would be inconsistent with the justice and humanity which characterize the British Government, to interfere for the purpose of sending slaves out of our own dominions. We suffer our Civil Courts to decree that a slave must return to his Slavery within our own dominions. But then the Slavery to which we so permit him to be condemned, is a condition in which he is protected from violence by the superintendence of our Courts. A runaway slave restored to a Hindu or Mussulman master beyond the jurisdiction of our Courts, might be cruelly beaten or mutilated, or even put to death.

That the principle thus adopted by the Supreme Government needs promulgation, seems clear from the embarrassment in which the Government of Bombay found itself in three cases which occurred in the course of the years 1837 and 1838.

On the 31st December 1837, Mr. James Erskine, Political Agent in Kattewar, wrote to Mr. Secretary Willoughby thus :—"I have the honor to solicit the instructions of the Right Hon'ble the Governor in Council in the case of an African slave, who having escaped from his master, a Scindian of Wagar, has sought my protection, but is now claimed by his owner."

"Annexed is the deposition of the poor unfortunate, as also an account of the condition in which he presented himself at Rajcote when he first came in. His owner demands his restoration, or if that is not permitted, the price which he paid for him. Considering that the lad was not imported by him, but purchased from another Scindian, who was not the importer also, I believe Government will decide on obtaining his freedom by the payment of the purchase money. For this reason I have retained the slave under my protection, and informed his owner that the orders of Government have been applied for in the matter."

Upon this communication Sir Robert Grant minuted on the 26th January, as follows :

"I think the owner of this unfortunate youth should, as a special case, be paid by Government the price for which he was purchased. But before sanctioning this, Mr. Erskine, without informing the owner of our intentions, should ascertain from him what was the amount of the purchase."

Inquiry was accordingly made, and the value of the slave having been ascertained to be Rs. 65-15-5, the Political Agent in Kattewar was authorized to pay that sum to the owner and to set the slave at liberty.

The next case gave rise to more discussion.

The circumstances of it are thus related by Mr. James Sutherland, Political Commissioner and Resident at Baroda, in a letter dated 2d April 1838, addressed to Mr. Secretary Willoughby.

"A person at Baroda went to Poona accompanied by a male slave belonging to his father. This slave left him without permission, and would not return. After every proper endeavour had been used on the spot, the father applied to me to afford him assistance. In consequence, I addressed a letter to the Superintendent of Bazars at Poona, requesting his aid to obtain restoration, but without any proper effect, as will be seen from his reply which I submit with this letter. In his reply he asserts that no power is vested in him by which he can in any way interfere."

Further on Mr. Sutherland says—"On the introduction of our rule, we found Slavery to exist sanctioned by the Laws of the country, and in India there has been no legislative enactment doing away with Slavery, or making any distinction in the relative position in which master and slave stand to each other. In fact the property of the owner in a slave is as much respected by the Constitution at this present time as it ever was:" and he concludes his letter thus:—"Mr. Saimon (the Superintendent of Bazars at Poona,) is not singular in the opinion he has given, for many have erroneously acted upon the same principle, emanating, I believe, from emancipation of slaves elsewhere by the British Parliament, but which does not extend to domestic Slavery in India, and as Judicial and Magisterial Officers are bound to administer the Laws, they should regard those only which are prescribed for their guidance."

Upon this communication Sir Robert Grant minuted at some length. And it is to be observed, that throughout his Minute he expresses no doubt of the right of the master to reclaim his slave though living in a foreign country. After shewing good reasons against complying with Mr. Sutherland's requisition, he proceeds thus—"On a recent occasion, when the daughter of the Guicowar* preferred a claim nearly similar to the present, I was willing to evade the difficulty by redeeming the two slaves demanded. Her rank seemed to me to render that course convenient, as it was both advisable and practicable. But it is plainly a course to be followed only under special circumstances. In this instance we must face the difficulty, and as at present advised, I should be apt to say, that the claimant, if desirous of recovering his slave, must proceed either as an inhabitant of Poona would have to proceed in a like case, or if he chooses to remain at Baroda, as any other person residing out of the British jurisdiction must proceed for the recovery of any other property. How far it is open to him to appear before the Magistrate by Attorney, or what are the precise steps he should take, I am quite unable to say; but I do not think that in the form in which the demand comes to us, it can be complied with. I

* The case here alluded to is one of the three we are setting forth. We have placed it last because the last discussions upon it by the Bombay Government were later than the discussion upon the present one.

quite agree with Mr. Sutherland that justice should be done, but what is asked could not, I think, be granted without injustice to another party."

"After all however, I mean here to state doubts rather than opinions, and I beg the advice of my colleagues. Mr. Anderson's knowledge and experience peculiarly qualify him to speak on the subject, and I shall feel greatly obliged by his giving it attention. I am told that several instances have occurred of a compliance with requisitions like the present, but I should not be apt to follow such examples unless they can be supported by better reasons than I have been able to imagine. Precedent cannot sanctify injustice. And without making any parade of anti-servile principles, or wishing to apply them to cases to which they do not belong, I certainly think that we ought to be cautious of acting on light grounds or loose authority in any matter affecting the personal liberty of mankind."

On the 23d April, 1838, Mr. Anderson thus expressed himself:—"However right Mr. Sutherland's opinion may be upon the general question of Slavery in this country, he was clearly wrong in conceiving that he had authority, as Resident at Baroda, to require a Magistrate at Poona to apprehend or give up a slave claimed by an individual at Baroda. His experience will, I think, have furnished him with no precedent for this."

"But the question is even more doubtful than this. It is doubtful if the Magistrate on the application of the owner himself could compel the slave to return."

"I say it is doubtful, because upon no question have the authorities in India given more opposite opinions than on this, the duties required of Magistrates in respect to slaves. I state this from the documents I saw when in the Law Commission."

"The subject was amply discussed, and we had laid before us the written opinions of every authority in India, except, by the way, the Sudder Adawlut of Bombay. The Note of the Law Commission on the Chapter of Exceptions, p. 22, fully shews the result."

He then adverts to the silence of the Bombay Code on the subject and continues thus:—"The law our authorities administer thus leaves the subject undefined, untouched, hence the Magistrates act upon their discretion, hence the diversity of opinion that is found to prevail."

"There is no difficulty in shewing Mr. Sutherland the great uncertainty of the law. There is no difficulty in shewing him that he had not the power to require the Magistrate to apprehend the slave. But there is difficulty in telling the master, that if he wishes the Magistrate to interfere, he must proceed to Poona, and yet that it is uncertain if the Magistrate will interfere when he gets there; it may be difficult, but I declare that I know no other course."

The uncertainty here alluded to by Mr. Anderson relates to the more general question whether a Magistrate would interfere to restore a slave to his master, not to the more particular question whether a Magistrate would interfere to restore a slave to his Slavery in a foreign country. This latter question, indeed, seems to be

one which could not properly arise upon a regular application to a Magistrate by the party or his Attorney. Upon such an application, we presume that the Magistrate, if he thought himself competent generally to adjudge a slave to his master, would not enquire, at least for the purpose of deciding the question before him, what the master purposed to do with his slave. And if he did make the inquiry in order to prevent an illegal exportation of a slave, he would endeavour to prevent that exportation, we presume, not by refusing to restore the slave to his master, (always supposing that he would be bound under other circumstances to do so,) but by taking security from the master not to export the slave.

The case terminated by Mr. Sutherland being informed what the views of Government were, and that it was left to his discretion to communicate so much of them to the party concerned as he might deem expedient, "intimating to him at the same time, that he possessed no method of recovering his alleged slave but by regularly proving his claim before the local Magistrate."

The last of the three cases arose out of a visit of the Guicowar's daughter to Poona. The facts are thus shortly stated by the Guicowar himself in a reclamation made by him to the Resident at Baroda. "My daughter Eshada Dae Ghooorporee, on her return from Poona to Baroda, remained for a short time at Nassick. There, two female slaves of her's, named Dhoondce and Parvattee, ran away from her service; these two were, in the presence of Mahadar Rao Sheraboode, given over to the Company's Officer at Nassick."

It appears from the statement of the slaves themselves, that Dhoondce accompanied the Princess from Baroda to Poona, whereas Parvattee was an inhabitant of Poona, where she entered the service of the Princess, and had never been in Guzerat. Both the slaves stated that they left the Princess's service in consequence of ill treatment.

The Guicowar applied to the Resident at Baroda, and the Resident to the Bombay Government, for an order to the Magistrate of Nassick to deliver up the slaves.

The Resident urged the same sort of arguments, and adverted also to the rank of the claimant.

Sir Robert Grant minuted on this application on the 8th April, 1838. After remarking on the difficulty of such cases he says—"Slavery, however, is not unlawful here, nor do I find that the Regulations forbid the export of slaves except for the purpose of sale or prostitution: therefore I am not aware that the Guicowar calls on us to do any thing illegal, or any thing so palpably *contra bonos mores* as to be for that reason out of the question."

"The slaves, however, plead ill treatment as the cause of their having deserted their mistress. In an ordinary case I think this would impose on us the duty, and confer on us the right, of inquiring into the truth of such plea, and to remit the demand if the plea were established. But the high rank of the mistress seems to me to preclude our taking that course, and under all the circumstances I am inclined to say that we should redeem these slaves."

Mr. Anderson in his Minute of 17th April asks—"Is there an obligation to give up the slaves? If such obligation exists it must be complied with. I do not see how it is met or got over by redeeming the slaves. If there is not an obligation, then I conceive we must leave them alone to do as they please."

This opinion of Mr. Anderson appears to be quite in accordance with that which was sanctioned by the Supreme Government in the case of the Nepaul Chief.

In a later Minute of the 3d May, Mr. Anderson, after referring to his Minute in the preceding case from Baroda, concludes by suggesting, that as the question was a political one and of some general importance, a reference should be made to the Supreme Government.

This suggestion was adopted, and the question was referred to the Supreme Government in a letter from Mr. Secretary Reid, in which, after advertence to the facts, the object of the Reference is thus stated—

"The Governor in Council is therefore desirous of being informed how such a case would be dealt with by the Magistrate under the Bengal Presidency, on a similar demand by any foreign Prince with whom the British Government is in alliance; and to be favored with the sentiments of the Right Hon'ble the Governor General of India as to the course which this Government should follow in the present instance."

The Government of India called upon the Sudder Dewanny Adawlut of Bengal to state what is the practice of the Courts under their control in regard to cases of a similar description.

The reply from the Registrar of the Court states—"that in ordinary cases the jurisdiction in matters regarding the property in slaves rests with the Civil Courts, and that a Magistrate would not be justified in interfering in order to compel their return to persons claiming them. In the case under consideration the Court are of opinion that a Magistrate should have acted precisely as the Magistrate of Nassick had done,—that is, refuse to deliver up the slaves, and refer the question for the decision of Government."

The Court then allude to what was done in a former case which occurred in the Bengal Presidency in the year 1810, and quote from the correspondence which took place in that case matter so important, that we thought it right to obtain from Government the papers on record relating to it; and we shall presently have occasion to call attention to the contents of those papers.

It thus appears to be laid down, that a Magistrate cannot restore to their master slaves who have escaped from a foreign country, nor slaves who have escaped from a foreign master who has brought them into our dominions. This, indeed, is contained in the more general proposition which, as we have seen, is maintained by the Government of India and by the Sudder Dewanny Adawlut of Bengal, that a Magistrate cannot restore any slaves to their master. It seems, however, to be the duty of the Magistrate to report to Government whenever a claim is made to slaves who have taken refuge from a foreign country. And this appears to be expedient,

inasmuch as such cases, particularly where the claimant is of exalted rank, may involve political considerations. It may further be collected, that Government will not cause such refugee slaves to be restored. But what does not appear from these cases is, the course which a Civil Court would be bound to pursue upon such a claim being made before it.

It is true that in the case of the Nepaul Chief the slaves were told, with the approbation of the Supreme Government, that they were at liberty to continue in the district in which they had taken refuge, without liability to future question or interference of any sort. But if this freedom from liability means, as the generality of the terms seems to import, that the slaves were not liable to be claimed in a Civil Court as the property of their master by a regular suit, then we apprehend that to give complete effect to the benevolent intentions of Government a new enactment is required. There is no Law which says that a foreigner shall not recover possession of his slaves in a civil suit. Perhaps if it were illegal to carry slaves over our frontier into the territories of a Native Power, as we now propose to make it, a Civil Court, when it had reason to suppose that such exportation would be the result of a decree in favor of the master, would be justified in requiring security that the slaves should not be carried out of the country. Even that however is doubtful, for such a transaction could hardly be considered as falling within any general prohibition of exportation.

We have already stated that our attention was attracted to a case which occurred in 1810 by a quotation made by the Sudder Dewanny Adawlut from the papers connected with it. From that case it appears that the Government of that day felt the same humane reluctance to allow slaves who had taken refuge in our territories to be deprived of that asylum against oppression. But they thought that a new Law was necessary for the purpose, and contemplated the enactment of one. Why that design was not executed we are not informed.

The circumstances of the case were as follows. In March 1810, Dusrut Tuppa, a subject of Nepaul, made a claim before Mr. Dumbleton, Magistrate of Goruckpore, to six slaves who had absconded from him and taken refuge in Zillah Goruckpore. It is worthy of remark that his demand was, either that the slaves should be restored to him, or their value given in money. The Magistrate heard the case, and sent the proceedings to the Sudder Court. The Court forwarded them to Government. "As the issue of this suit," (meaning a suit in a Civil Court,) says the letter of their Registrar, "may involve the delivering up six persons, the subjects of a foreign State, who have sought an asylum in the British Territory; and as the Governor General in Council may possibly deem it expedient to satisfy the claim of the plaintiff for the value of the slaves rather than allow them to be surrendered, the Court submit the case for the information of Government."

The Government authorized the payment of the value, Rupees 226. But Mr. Secretary Dowdeswell, in communicating this to the Registrar of the Court, observes, "at the same time it appears necessary to Government to guard against the recurrence of demands of this nature."

"Whatever reason may exist for maintaining the existing Laws respecting domestic Slavery among the two great classes of the native subjects of this country, the

Mahommedans and Hindus, the Governor General in Council is not aware of any principle of justice or policy which requires us to render our Courts of Judicature the instruments for compelling persons who may seek an asylum in the British Territories, to return in bondage to the countries from which they may have emigrated. Unqualified as the Hindu and Mahommedan Laws respecting domestic Slavery at present are, his Lordship in Council concludes that a Regulation will be necessary in order to establish the modification of it above noticed in the practice of our Courts of Judicature. The Governor General in Council accordingly requests that the Nizamut Adawlut will prepare for his consideration the draft of a Regulation framed on the principle above described."

There is some difficulty in devising a provision which shall give protection to slaves under such circumstances as those mentioned in the cases we have detailed, and which shall not at the same time make an invidious distinction between foreigners suing in our Civil Courts, and our own subjects. We think it would not be reasonable to enact, that a person domiciled in Nepaul or Oude should not have the same remedy for recovering the services of his slaves, provided he is willing that those services shall be rendered where the slave is within the protection of our Courts, as a person domiciled on our side of the frontier. But at the same time, if we prohibit the master from carrying his slave home with him after he has obtained a decree, the right of suing for such a decree is almost, if not quite nugatory. We propose, nevertheless, to give the foreign slave-owner this barren right to sue, merely as the least offensive mode of doing what, we think, must be done at all events. It is clearly the least offensive mode, for it shews the foreigner that no distinction is made by Law between him and our own subjects. We only refuse to him that which we equally refuse to them; the true difference being, that the thing refused is of much more importance to his interests than to theirs. We shall not propose, therefore, to protect the refugee slave by disabling his master from suing. But we shall propose, in addition to the general prohibition of exportation by land which we have already intimated our intention to recommend, a provision to the effect, that it shall not be lawful for any person to remove from the British dominions any slave who may have taken refuge therein; nor for any person to remove from the British dominions a slave whom he has brought into them, if the slave desires to remain.

We think, however, that a fine will be a sufficient punishment for the breach of these provisions, and that the fine should be remitted if the slave is brought back to the British Territories.

Our first ten Recommendations relate to free persons;

Our next seventeen to slaves;

Our next four to bondsmen;

And our last two, to the provisions of the Statute 5th George IV. C. 113.

Our Recommendations relating to free persons are—

1. That it shall be unlawful for any free person to become a slave by any means whatever.

2. That it shall be lawful for any free person of full age to contract to serve another for life, or for any number of years.

3. That it shall be lawful for the parents or guardians of minors to apprentice them till majority, or for any shorter period.

4. That all contracts under Recommendations 2 and 3 shall be void upon the ill treatment or prostitution of the servant or apprentice, and shall be void ab initio if made with a view to prostitution.

5. That all contracts under Recommendations 2 and 3 shall be registered within a fixed time by some public Officer to be designated by the Executive Government, who shall exercise his discretion in granting or refusing registration for a sufficient cause to be assigned, and that every such contract shall be void if not registered within the time fixed.

6. That any person who shall pretend to apprentice or to sell any minor, of whom such person is not the parent or guardian, shall be punishable by fine not exceeding or by imprisonment, with or without hard labor, for a term not exceeding or by both.

7. That any person who shall purchase or receive as an apprentice any minor from any person whom he has not good reason to believe to be the parent or guardian of such minor, shall be punishable by fine not exceeding or by imprisonment, with or without hard labor, for a term not exceeding or by both.

8. That any person having in his possession one or more minors with the intention of selling or apprenticing them, such person not being the parent or guardian thereof, shall be punishable by fine not exceeding or by imprisonment, with or without hard labour, for a term not exceeding or by both.

9. That any party to any contract under Recommendations 2 and 3 who shall omit to apply for the registration of such contract within the time fixed, shall be punishable by fine not exceeding or by imprisonment, with or without hard labor, for a term not exceeding or by both.

10. That no rights arising out of any contract under Recommendations 2 and 3, shall be enforced by a Magistrate, and that no wrongs which are violations of such rights, except such wrongs as are specified in the 23d Chapter of the Penal Code, shall be punished by a Magistrate.

Our Recommendations relating to Slavery are—

11. That it shall be unlawful for any person to acquire any slave, or to hire the services of any slave from his master, except persons who are the issue of Hindu, or Mahomedan, or Parsee fathers and mothers.

12. That any act which would be an assault if done to a free man, shall be an assault, and punishable as such, if done to a slave by his master, or by any other person.

13. That no sale or gift of a slave, nor any transfer of his services for a limited time, except where land in the cultivation of which such slave is employed is sold, given, or transferred for a limited time, shall be valid, unless it be made in writing, and authenticated by some public Officer to be designated by the Executive Government, and unless it be made with the consent of the slave, if adult, or of his parent or natural guardian, if a minor.

14. That no slave shall be sold by public authority in execution of a decree of Court, or for the realization of arrears of revenue or rent.

15. That no sale, or gift, or transfer of the services for a limited time, of any female slave for the purpose of prostitution, shall be valid.

16. That any slave shall be entitled to emancipation upon the neglect, refusal, or inability of his master to provide him with customary maintenance.

17. That any slave who has been treated with cruelty by his master, shall be entitled to emancipation.

18. That any female slave who has become a common prostitute through the influence of her master, shall be entitled to emancipation.

19. That any slave shall be entitled to emancipation if a reasonable price be tendered to his master.

20. That whenever any slave is entitled to emancipation, the wife or husband, and the minor children of such slave, shall also be entitled to emancipation, provided they are slaves of the same master.

21. That any person claiming emancipation from Slavery shall be entitled to enforce his claim either in a Civil or Criminal Court.

22. That any person claiming emancipation from Slavery, or claiming to be a freeman, shall be entitled to the privileges of a pauper in any Civil Court.

23. That every decree by which the Slavery of any person is affirmed shall be appealable to the Sudder Dewanny Adawlut.

24. That any person exporting a slave by land from the British territories into those of any foreign Power against the will of the slave, or removing a slave against his will with a view to such exportation, shall be punishable by a fine not exceeding
or by imprisonment, with or without hard labour, for a period not exceeding
or by both.

25. That any person selling a minor slave without the consent of his parent or natural guardian, or having in his possession one or more minor slaves with the

intention of so selling them, shall be punishable by fine not exceeding or by imprisonment, with or without hard labour, for a period not exceeding or by both.

26. That any person who shall remove from the British Territories any slave who may have taken refuge therein, or any slave whom he may have brought into those territories and who is unwilling to return, shall be punishable by fine not exceeding but shall be entitled to have the fine remitted upon bringing back such slave into the British Territories.

27. That no rights arising out of Slavery shall be enforced by a Magistrate, and that no wrongs which are violations of such rights, except such wrongs as are analogous to those specified in the 23d Chapter of the Penal Code, shall be punishable by a Magistrate, except by emancipation under Recommendation 16.

We do not intend that any of these Recommendations which imply the recognition of Slavery as a legal status, should apply to any places within the territories subject to the Government of the East India Company (such as Kumaon) where that status has no longer a legal existence. But with this reservation we propose that all legislative provisions which are inconsistent with our Recommendations, should be repealed.

If the above Recommendations are adopted, no Bondage will be lawful in future except such as is sanctioned by our second Recommendation, and those connected with it. The four following Recommendations are only rendered necessary by the nature of the actually existing Bondage.

28. That no right to the services of any bondsman shall be transferred without his consent.

29. That no right to the services of any child or other descendant, or of the wife of any bondsman, shall accrue upon the death of any bondsman to the person entitled to his services, notwithstanding any agreement to the contrary, express or implied, between the bondsman and the person entitled.

30. That all contracts of Bondage shall be void upon the ill treatment of the bondsman, or upon the ill treatment or prostitution of the bondswoman.

31. That no rights arising out of any contract of Bondage shall be enforced by a Magistrate, and that no wrongs which are violations of such rights, except such wrongs as are specified in the 23d Chapter of the Penal Code, shall be punished by a Magistrate.

Our Recommendations relating to the Statute 5 G. IV. c. 113 are—

32. That the Government of India should request the Home Authorities to cause Commissions of Vice Admiralty to be sent to all places within the limits of Company's Charter where there is a Court of Admiralty and where no Vice Admiralty Commission exists.

33. That the Government of India should request the Home Authorities to apply to Parliament for an Act declaring and enacting, or simply enacting, that the Government of India, and the Governments of Madras and Bombay, and of the Straits, shall exercise the same powers as by the above mentioned Statute are to be exercised by the Governors of any Colonies, &c. belonging to Her Majesty, and that the Officers of the East India Company shall exercise the same powers as by that Statute are to be exercised by Her Majesty's Officers, Civil and Military.

Several other measures have occurred to us which might perhaps contribute to secure both to master and slave the benefits which each party looks for from that relation, which we nevertheless abstain from recommending. The reason is, that we are anxious that the Law should be, as far as possible, in such a state as to oppose no obstacle to the dissolution of Slavery whenever it shall cease to be in accordance with the feelings of the people, and also in such a state as to oppose no obstacle to that change in the feelings of the people.

It is very possible that a Law containing provisions for the easy and speedy enforcement of the right which the slave has to subsistence, from his master whether he is able to work or not, might be productive of some benefit to the slave, and the same may be said of a Law to restrain manumission. But such Laws would tend to give stability to Slavery. They would tend to keep alive the servile spirit, the spirit which leads men to barter their liberty for security against starvation. We are afraid of any legislation which shall confirm the rights that spring out of Slavery, whether they be the rights of master or of slave. We would have the slave look up to the Magistrate as his protector against violations of those rights which he would enjoy in an equal or greater degree if he were a freeman; but not against the violation of those rights which he has as a slave, and would not have at all if he were not a slave. We would give no encouragement to his reliance upon these rights.

We propose that the Law should forbid assaults upon a slave just as it forbids assaults upon a freeman, and we therefore propose to give the slave the same remedies for assaults as a freeman. But we do not propose to give any fresh confirmation to the right which the slave now has to food, clothing, lodging, the expenses of his marriage, and to the protection of his master against wrongs done him by strangers. We have no evidence that slaves ever appeal to the Courts of Justice for the enforcement of these rights. We do not desire that they should so appeal. No doubt the effectual enforcement of such rights as these might render the status of the slave in some instances more valuable to him than it now is; perhaps in some instances nearly as valuable as the status of Pauperism had become to the labouring classes in parts of England before the new Poor Law. But we do not think this upon the whole desirable. Whatever measures it may be necessary ultimately to adopt for saving the destitute from starvation in India, we are disposed to think that no method of doing this which has ever been devised, is open to such grave objections as Slavery, even in its most mitigated form. We desire the extinction of Slavery in India; indeed its ultimate extinction may be considered as already decided by the Imperial Legislature. And we believe that if, by taking away the power of punishment, we prevent the possibility of any speculations depending upon slave labor holding out a prospect of profit, the other motives which hold the master and slave together will become gradually weaker with the general

progress of society. And this tendency, we think, would be counteracted by giving the slave and his posterity an indefeasible right to subsistence which he could enforce against his unwilling master. We leave the slave therefore to the force of custom, of ancient, though perhaps never enforced law, and to the kindly feelings of his master, so far as regards the positive privileges which belong to him as a slave. But we bring him within the protection of British Courts of Justice as regards those negative rights which he already has, or with which he is now to be invested in common with all other subjects of Great Britain.

If the object were to preserve Slavery for the sake of the partial good which in certain states of society it produces, then no doubt it would be desirable to aim at the security and extension of that good. But as the object is to let Slavery perish quietly, legislation should, it seems to us, be confined to the mere prevention of its evils.

If, as we recommend, all assaults upon a slave by his master are forbidden by Law, the legal condition of the slave will approach much more nearly to Pauperism than to what is called Slavery in other countries. The essential distinction between him and a laborer will be, that instead of hiring himself out wherever he can find employment, and receiving wages while he is employed, he is bound by Law to give to one person all the labor of himself and his family, and entitled by Law to receive subsistence for himself and his family at all times from that person. These are rights and obligations which we believe cannot be generally and systematically enforced by legal proceedings. Whatever permanence they are to have must depend mainly upon the mutual interests and wishes of the parties. Those mutual interests and wishes appear at present to have sufficient strength to preserve the relation between master and slave from dissolution. And, with regard to the slaves, we do not perceive any general cause likely to change their view of the matter, except one, of which the operation must be extremely remote; we mean the general diffusion of education. But with regard to the masters, the case is different. A change in their views may be expected within a much shorter period. As soon as the proprietors of the soil begin to prefer profit to pomp, a large revenue to a large retinue, they will find the possession of a troop of slaves, that is to say, of slaves whom they may not punish, a very burthensome appendage. We have seen that proprietors in decayed circumstances very frequently allow their slaves to seek a livelihood where they please, and the most flourishing proprietors will assuredly do the same thing whenever the great object of their desire is to increase the net produce of their estates.

We think, then, that we were justified in expressing our hope, that if our Recommendations are adopted, no further Legislation will be necessary upon this subject. As far as Laws can prevent, nothing will be left which the slaves themselves look upon as an evil. There will remain for some time what in the eyes of the slaves is a good, though it is otherwise in the eyes of an enlightened Government. But after a time even this will silently disappear. Thus will be accomplished the task which the Imperial Legislature has imposed upon that of India of "mitigating the state of Slavery," "ameliorating the condition of slaves," and "extinguishing Slavery as soon as such extinction shall be practicable and safe."

C. H. CAMERON.
F. MILLETT.

The majority of the Commissioners, Mr. Amos, Mr. Elliott, and Mr. Borradaile, while they cannot entirely concur in the observations and conclusions of their colleagues on some important points, yet agree with them for the most part in the opinions expressed, and the recommendations offered, in the foregoing pages of this portion of the Report, which are indeed, to a considerable extent, founded on the consultations of the whole Commission. The three Commissioners, however, have directed their attention principally to matters having immediate reference to East Indian Slavery, and have not made any close comparison between that and other species of Slavery.

The majority of the Commissioners agree with their colleagues in thinking, that on the part of the slaves in India, of all classes, there is not any general desire for freedom. They believe indeed, that the advantages of the condition of Slavery, according to the modification of it which exists in India, are so far thought to overbalance the evils incident to it, that few slaves would, under ordinary circumstances, voluntarily abandon the relation in which they stand to their masters.

The majority of the Commissioners agree with their colleagues in thinking that the principal evils incident to the condition of Slavery in India arise out of illegal acts perpetrated under color of Slavery, and which are neither warranted by law, nor by general custom; and they concur in the conclusion, that it would be more beneficial for the slaves themselves, as well as a wiser and safer course, to direct immediate attention to the removal of the abuses of Slavery, rather than to recommend its sudden and abrupt abolition.

It is in proposing remedies for checking the abuses of Slavery that the majority of the Commissioners are unable to concur entirely in the views of their colleagues. The main difference between them relates to the power of coercion, and of restraint, which the masters of slaves now possess and exercise, for the purpose of enforcing their services, maintaining discipline among them, and preventing their absconding, the effect of that power, and the consequences of abolishing it.

The majority of the Commissioners apprehend it to be the general impression among the natives, that the Law rightly interpreted, with a due allowance for prescriptive usage, warrants such a degree of coercion as is recognized by the Circular Order of the Madras Court of Foujdaree Adawlut. (Vide supra page 220.) It is believed that the slave ordinarily submits without complaint to moderate correction inflicted by his master for the breach or neglect of his regular duties. He considers that the evil, such as it is, of thus being compelled to work, is compensated by the advantage of maintenance for himself and his family, not only whilst in health and vigor, but also in sickness, and after failure of strength. The demand thus made by a master on the labor of his slave does not generally exceed the demand that would be made upon

a hired laborer, and for the most part hired laborers and slaves are employed upon similar tasks.

It appears however to the majority of the Commissioners that without a power of moderate correction for neglect of duty lodged somewhere, slaves employed in field labor at least, would not work with the like industry as hired laborers, whose bread depends on their giving their employer satisfaction, who know that if they do not perform the task set them for the day they will not get the hire for the day, and, probably, will not meet with an engagement for the morrow.

The slaves know that they are of a certain value to their master, and that he could not discharge them, as he might discharge a hired laborer, without loss to himself, and that it is their master's interest to give them sufficient subsistence to keep them in working condition. Under these circumstances it is to be expected that they will indulge that propensity to idleness so characteristic of the lower orders in India, as far as they can, and that they will do nothing that they can avoid doing.

The fear of losing their situations can have little influence in counteracting the propensity to idleness among slaves, when they must feel sure that they run no risk of being discharged for only doing less than they are able and ought to do, while they still render some service which is not without value. It is more, it is conceived, than can be reasonably expected, that predial slaves, at least those living apart, and kept at a distance by their masters, and not partaking of their sympathy, as in Malabar and elsewhere, will work actively from any regard to the interest of those masters.

It does not appear to the majority of the Commissioners that, in the parts of India at least where predial Slavery exists, masters are willing to be satisfied with a less degree of industry on the part of their slaves, upon whose labor they depend, perhaps entirely, for the cultivation of their lands, than they would require from hired servants. Every master may be expected to have a natural desire of improving his income and thereby increasing his comforts, and in proportion as that desire is more or less strong, so will be the motive to urge his slaves to exertion. Neither is it universally the case that the object of the land-owner is to maintain his family and slaves by the produce of the land, and not to accumulate a fortune out of the surplus. There will always be found native land-owners, such as the Mopla merchants of Malabar, who have purchased their lands merely for the sake of a profitable investment of money, and whose sole object is to raise the largest possible surplus produce. Yet in fact there appears to be no difference in the treatment of the slaves of the Mopla merchants and those of ancient proprietors; the same description and quantity of labor appears to be required and obtained from both. It is to be observed, with reference to this matter, that in the peculiar condition of Slavery which prevails on the East and West Coasts of the Southern Peninsula of India, and it would seem, more or less elsewhere, whole tribes have been regarded as impure outcastes, subject from remote antiquity to the cultivation of the soil, in like manner as pure Hindoo castes are bound to particular professions and occupations. The distinction between these outcaste tribes and the pure classes is, in the parts of India where it prevails, quite as marked as any that can arise from color.

A check upon the power of the master, independently of law, is the fear of making the slave dissatisfied with his condition and disposing him to desert. In some parts of the country, we have proof that this check has operated most beneficially for the slave, especially in restraining the master from a severe exercise of his power of punishment, and it is believed to have much influence every where. In the neighbourhood of towns where the wages of labor are high and the advantages of freedom obviously preponderate, masters have been unable to maintain their control over their slaves, and in a great measure, have tacitly ceased to exercise it. Thus in the neighbourhood of Madras particularly, where predial Slavery formerly prevailed in as full force as in the other parts of the Tamil country, it is now little more than nominal. The same change appears to have commenced and to be in progress in the neighbourhood of several of the larger towns and seaports on the Malabar Coast.

It is very material to bear in mind that every excess of moderate correction, or of correction of any kind without cause, is punishable by the Magistrate, and that there is no apprehension of the Law in this respect not being always construed very beneficially for the slave.

The majority of the Commissioners consider that a Law taking away all power of correcting and restraining slaves would have the effect, as far as the promulgation of a Law could produce it, of abolishing Slavery. They concur in the Observations contained in Note B of the Penal Code, "that a laborer who knows, that if he idles his master will not dare to strike him, that if he absconds his master will not dare to confine him, and that his master can enforce a claim to service only by taking more trouble, losing more time, and spending more money than the service is worth, will not work from fear." In such a case names are of no consequence, the laborer is in reality no longer a slave. There is an end too of that kind of domestic discipline by restraint over the slaves, especially the female slaves, which has hitherto been considered requisite for the due government of a family according to native manners.

The majority of the Commissioners consider that the restricted power of coercion and restraint which the masters may now lawfully exercise cannot justly or prudently be taken away by Law without providing compensation, or without transferring the power to the Magistrate. But neither of these courses appears to them to be advisable.

With respect to the first, they think that a provision which would be satisfactory in regard to all the interests concerned is scarcely feasible, and they consider it inexpedient to attempt a measure so beset with difficulties, and so unlikely to give general content. They see no reason to doubt that the masters would be really injured by a Law depriving them of their present compulsory power over their slaves; but the real injury, they apprehend, would be inconsiderable compared with the loss that would be plausibly alleged, and attributed to a measure involving so sweeping a change in the relation of master and slave, and for which compensation would be claimed if any opening were given to such claim. It is likely that for a time every loss in an estate cultivated by slaves, not obviously produced by some other distinct cause, would be ascribed indiscriminately to this cause; and that whenever the proprietor fell in arrears of the revenue

payable by him he would complain that he was unable to pay because he could no longer compel his slaves to work, or that he was put to greater expense in cultivating his estate by the necessity of giving extra allowances to his slaves to induce them to work as they did before. It is thought that wherever the Law effected its purpose of preventing the master from coercing his slaves, there would be grounds for complaints of this nature : that either the master would really get less service from his slaves, or would be obliged to purchase their exertions by extra allowances or indulgences. The example once set by a master of giving extra allowances or indulgences, his neighbours would be constrained to follow it in order to prevent their slaves from becoming discontented, and availing themselves of the license to abandon their services, which they would find they might take with impunity and without resistance, whenever they pleased.

It is not thought that the Law would come into general operation so as to have the effect intended quickly, because the ignorant slaves would not soon become aware of the privilege bestowed on them, and because they would not be ready to take advantage of it, while the masters would be slow to give obedience to the Law so long as the slave did not complain. But the masters would be quick to perceive the tendency of the Law, and the injurious effect it must have upon their interests eventually. By them, therefore, it would be felt as a grievance from the first, and there seems reason to fear that it would occasion among them a degree of discontent, in some parts of India at least, which it would not be prudent to provoke.

The demand for compensation would first arise probably in anticipation of the injury, and it is thought that it would be impossible to satisfy it. If it were determined to give compensation only in case of loss being proved, there would be extreme difficulty in judging of it, and however reasonable the judgment might be, it would, most likely, always disappoint the claimant. The enquiry must necessarily occupy a great length of time and involve many perplexing questions ; whilst after all the trouble bestowed, the expense incurred, and dissatisfaction provoked, the object of the compensation might, perhaps, be very little furthered.

But the injury which would be most felt arising from the relaxation of discipline among domestic slaves, and consequent disorder in families, would not admit of compensation, and there would be no other means of allaying the discontent which it is feared would be excited by a Law calculated to produce such results.

With regard, next, to the transferring of the power of punishment and of restraint from absconding, to the Magistrate. It is to be observed that the power of punishment was not taken from masters by the Imperial Parliament in the case of the West Indies, until the status of Slavery was abolished; whilst the status was left untouched, an effectual power of punishment was left also as necessary to maintain the master's dominion. It was when Slavery was changed into contract service, for a certain time, that the power of punishment was taken from the master and transferred to the Magistrate.

The majority concur with their colleagues in thinking it inexpedient to make the transfer to the Magistrate in India, though they do not agree to all their reasons. While they deem it not advisable in the present circumstances of India to take a

step tending directly to destroy the authority of masters and so to annihilate the status of Slavery, they see the most forcible objections to any measure tending to confirm and give permanency to so debasing a status, and one which can only be tolerated, because more decisive measures would tend rather to impede its gradual decay than to effect its abolition. Upon the most mature reflection they are convinced that to require the Magistrate to compel a slave to yield obedience and render service to his master would have the effect of upholding Slavery on a more firm and permanent basis. They would carefully refrain from taking any step that would be to the prejudice of the slave. They think that this step would be so, even if united with the abolition of the master's right to punish and restrain. It would also be a step contrary to the principles upon which the Government of India have lately acted, and to the practice throughout almost the whole of British India.

As the majority of the Commissioners are not prepared to recommend that Magistrates should be required to interfere for the purpose of compelling slaves to perform their duties or to punish them for default, they need not enter upon the general question of the propriety of the Regulations which empower Magistrates to interfere upon the complaints of masters against their servants for misconduct or neglect of duty. They will only observe that if slaves were to be made free from restraint and entirely exempted from punishment for failure of duty, they would obviously be placed in a more independent situation than that in which free servants actually stand in most parts of India.

The majority have now to express their own view of the course which should be followed.

They propose to leave untouched the lawful status of Slavery and with it the lawful power of the master to punish and restrain. It is lawful to correct a slave moderately and to restrain him by the use of a force which if used to a free man would be an assault. It is not lawful to correct a slave immoderately or arbitrarily, or to use violence sufficient to cause permanent or severe personal injury. There is no doubt that the vindicatory powers of the Law as it exists are sufficient to punish cruelty and oppression by a master. The majority think that the power which the master may lawfully exercise and does exercise occasionally is necessary as a check to the propensity to idleness which the situation of the slave naturally produces; they do not think that it is in general exercised with severity; they have already pointed out the check by which, independently of Law, the master is restrained from severity. They believe that by fear of the vindicatory power of the Law on the one hand, and this check on the other, the personal treatment of slaves by their masters has been already considerably mitigated. They see reason to think that the causes upon which the check adverted to depends are gradually gaining force, and to hope that if they are left undisturbed to work their way, they will surely accomplish eventually, but without precipitation, and without disorder, and almost imperceptibly, the ultimate object aimed at, the general extinction of Slavery; while in the mean time the condition of the slaves will be progressively ameliorated.

With these views it appears that the more prudent course is not to add new provisions to the Law which would be offensive, and irritating, and really injurious, so far as they should be operative, to the masters. Such provisions, if their operation was

found to be successful, and not purely prejudicial, or if they were not totally inoperative, would have the effect of precipitating and bringing about with a ruder shock, and probably with some disorder, the same issue which may be attained gradually by a surer and more safe course. It should be endeavoured to give efficiency to the administration of the existing Law for the protection of slaves, that the fear of it may more powerfully restrain the masters from abusive acts falling within its scope, and to provide some additional checks to enforce its requirements and prohibitions.

For this latter object the majority concur with their colleagues in recommending "that any slave shall be entitled to emancipation upon the neglect, refusal or inability of his master to provide him with customary maintenance," and "that any slave who has been treated with cruelty by his master shall be entitled to emancipation;" "that any female slave who has become a common prostitute through the influence of her master shall be entitled to emancipation;" and "that whenever any slave is entitled to emancipation the wife or husband and the minor children of such slave shall also be entitled to emancipation, provided they are slaves of the same master."

Further, in aid of the causes which it is conceived are leading to the mitigation and eventual extinction of Slavery, the majority concur with their colleagues in the restrictions proposed with regard to the transfer of slaves, and in the recommendation that any slave shall be entitled to emancipation if a reasonable price be tendered to his master. They wish to go further and recommend a provision corresponding with that which was ordained by the Order of Council for Trinidad in 1824, that a slave who has acquired sufficient property shall be entitled to purchase his own freedom, the freedom of his wife, and that of his children.

This last recommendation, it will be observed, recognises a right on the part of a slave to the possession of property. It will be allowed that it is of the utmost importance to establish this right on the part of the slave and to render it unquestionable for the future, if this can be accomplished without injustice to the master. It appears to the majority of the Commissioners that the right of the slave to retain the possession of property which he has acquired has been practically admitted by masters to such an extent, even in parts of India where Slavery is most prevalent and is maintained with the greatest strictness, that no injustice or danger would arise from establishing the right permanently by Law.

It appears to the majority of the Commissioners that a provision enabling slaves to purchase emancipation with their property would have a beneficial operation generally throughout India, but, perhaps, particularly so in Malabar. It is thought that such provisions are particularly requisite, and would serve the interests of both master and slave in those situations where the advantages of freedom so decidedly overbalance those that belong to the servile condition, that the slave is under a constant temptation to escape, and the master finds it difficult to maintain his control. Under such circumstances the master would be disposed to give up his right to the slave for a very small compensation, and the slave would probably be able to raise a sum sufficient for the purpose by binding himself as a hired servant to a new master, and would be willing to release himself absolutely in this way, rather than by deserting with the bond of slavery still hanging over him.

The majority consider that such provisions would be very beneficial, for instance, to those slaves in Malabar who living in the neighbourhood of towns, are permitted by their masters, during a part of the year when they have not work for them, to seek employment there, and to whom it is a hardship after having enjoyed the comparatively high wages paid for labour in those places, to be obliged to return at the call of their masters to work for them on a pittance scarcely sufficient for their support. The hope of being able to purchase their freedom, would encourage the slaves under such circumstances to save their wages, and the temporary masters of those who were diligent and active, would sometimes probably aid them by advances to make out the price required for their emancipation.

Nothing, in the opinion of the majority, would tend more to raise the character of the unfortunate race who are subject to Slavery in Malabar, than such a transition of individuals among them to a state of freedom, gradually but constantly going on. Emancipated slaves who have bettered their condition, and acquired property by the higher reward of labour to be obtained in towns, and who have not only enjoyed personal liberty, but by their residence in towns among a mixed population, have been, for a long time, saved from the ignominious treatment to which their brethren are exposed in other parts on account of their caste, will probably have gained such a feeling of independence as to lead them to refuse compliance with the degrading usages which prevail in the interior of the country, and to resist any attempt to enforce their observance against themselves, or those connected with them. The influence of their example would spread, and aided by the discountenance of the governing authorities of all such humiliating practices, would tend to their falling gradually, though perhaps slowly, into desuetude. Thus then it seems, there is reason to expect a beginning to the breaking up of the odious debasement of caste which now so lamentably depresses the miserable subjects of it; and which is a principal impediment to the extinction of Slavery in India.

The suggestions offered in the Draft for the prevention of the sale of free persons into Slavery, particularly with a view to put a stop to the abuses arising from the sale of children, and for restricting within the British territories the sale of slaves; and the recommendations relating to bondage; are founded upon principles agreed to by the Commission unanimously, after much discussion and deliberation, and the majority consent generally to the observations and reasons by which they are supported, subject to some partial qualifications where they appear to militate against their sentiments as above expressed.

One other provision, not recommended by their colleagues, the majority consider to be necessary to guard against what would be a great evil, and one, they conceive, not unlikely to occur in the gradual decay of Slavery, viz. a provision to prevent masters from relieving themselves by pretended emancipation from the obligation of supporting during life, the slaves who from age or infirmity, after having worked for them through their youth and manhood, while their strength lasted, have become unable to render them efficient service. The provision that appears to be called for is, that any slave who is above the age of fifty, or who, being under that age, is suffering from an infirmity which renders him incapable of earning his own subsistence by labour, shall be entitled to refuse emancipation, and that no master

shall be exempted from the obligation of supporting such slave during life, unless the slave has formally accepted his freedom, and surrendered his claim to maintenance, by an act done and recorded in a Civil Court, or in the Court of a Magistrate, after being personally examined by the Judge or Magistrate, to ascertain that his consent is freely given with a knowledge of the consequences, and that other means of maintenance are available to him. Unless the Judge or Magistrate is satisfied on these points, he should not permit the act to be recorded.

On the principle of not permitting any extension of the existing Slavery of British India, or allowing any conditions of Slavery not having the sanction of long established custom, and as Slavery is scarcely known in India, except under masters being Hindoos, Mahommedans, or Parsees, the majority concur in the recommendation intended to prevent persons of other classes from acquiring slaves, or hiring the services of slaves. Existing interests will not be affected by this measure. And whatever doubts there may be on the general question, whether a person amenable to English law, may lawfully be the owner of a slave, the law as proposed will leave no ground for any mistake on this point in future with respect to the British territories in India at least.

The majority concur in the recommendations relating to the Act 5, Geo. IV. C. 113, for the purpose of rendering its provisions effectual in India for the prevention of the importation and exportation of slaves by sea.

On the subject of the importation and exportation of slaves into and from the British territories by land, the majority of the Commissioners do not entirely concur with their colleagues.

On the principle in which they all concur that every means should be adopted to prevent any extrinsic accession to the stock of slaves in British India, the majority think it should be enacted, that no person shall be recognised as a slave in the British territories on the ground of his having been a slave in a foreign territory, and that any act which would be punishable if done to a free man, shall be punishable if done to a person who, having been a slave in a foreign country, has been brought into, or has taken refuge in the British territories.

An enactment of this tenor, it is conceived, would be sufficient without attaching a penalty to the act of importing slaves. The object is not to prevent a foreigner who has been accustomed to be served by slaves from bringing them with him for the sake of their services when he has occasion to enter the British territory, but to prevent him from treating them and dealing with them as slaves, and especially from removing them by force when he returns, if they are unwilling to go with him. And with respect to slaves imported for sale, from the moment of their entering the British territory, the importer, under the proposed enactment, would be liable to punishment for any attempt to carry his purpose into execution.

The majority concur with their colleagues in thinking that the exportation of slaves against their will should be generally prohibited: but in order that the will of the slave may be ascertained, they consider it necessary that the provision should be expressed as follows:

That any person exporting, or attempting to export a slave from the British territory into a foreign territory, without the consent of the slave having been declared by him personally before a Magistrate, and certified by the Magistrate, shall be punishable by a fine not exceeding or imprisonment with or without hard labor for a period not exceeding or with both.

With respect to the other recommendations which they have not particularly noticed, the majority of the Commissioners wish to be understood as concurring generally with their colleagues.

The majority are fearful that it may be thought that they have treated the topics upon which they differ from their colleagues in a more summary manner than the case demanded. Though they have maturely considered their various recommendations, they could have wished for some further time in order to explain and illustrate their sentiments more fully. But although the papers relative to the several topics had been previously discussed at the meetings of the Commission, it was not till within a very few days that they were circulated as finally revised and digested, and in the connected form in which, according to the previous arrangement among the Members, it was settled that they should be considered by the whole Commission with a view to the ultimate preparation of the Report. The majority were unwilling, after the call lately made by Government, to delay the submission of those papers, which, besides containing the opinions of their colleagues from which they dissented, contained likewise much in which all agreed and which was the result of their joint consultations. They were equally unwilling to submit the opinions of their colleagues on the points of difference without a brief expression of their own sentiments that might sufficiently indicate the views they entertain, though the time would not allow of their being elaborately developed.

ANDREW AMOS.

D. ELIOTT.

H. BORRADAILE.

Before we conclude we wish to express our obligations to our late colleague, Colonel James Young, to whom the preparation of the details relating to Bombay was committed in the original distribution of our labours, and who afforded us much assistance in the discussion of the whole subject.

We submit this our Report for the consideration of your Lordship in Council.

ANDREW AMOS.

C. H. CAMERON.

F. MILLETT.

D. ELIOTT.

H. BORRADAILE.

Law Commission, January 15, 1841.

